SENATE—*Thursday, August 2, 1990*

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.—Genesis 2:24.

Husbands, love your wives, even as Christ also loved the church, and gave himself for it.—Ephesian 5:25.

And, ye fathers, provide not your children to wrath: but bring them up in the nurture and admonition of the Lord.—Ephesian 6:4.

God our Father, we pray this morning for our families. So often they are hostage to the Senate schedule. Some Senators when retiring from the Senate, gave as one reason among others, in order to be more responsible as spouse and parent. August is the only recess when children are out of school and families can be together for a protracted time. Spouses and children are filled with anticipation for this opportunity to be together as a family.

Gracious Father in Heaven, help the Senate to do its work this week in order that families will not be disappointed. This may seem impossible in light of circumstances but Thou art the God for whom "nothing is impossible." In the power of the Holy Spirit, help the Senate to do the impossible these next 2 days, that family plans or other plans may not have to be aborted. We pray in the name of Jesus who is "The way, the truth, and the life." Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will be a period for the transaction of morning business until 9:30 a.m., with Senators permitted to speak therein.

I might add, the Senator from West Virginia [Mr. ROCKEFELLER] will be recognized for not to exceed 20 minutes.

In his capacity as a Senator from the State of West Virginia, the Chair notices the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the order previously entered, the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for not to exceed 20 minutes.

Mr. ROCKEFELLER. I thank the Chair, and I greet the Chair.

S&L CRISIS

Mr. ROCKEFELLER. Mr. President, I rise today to once again express my outrage over the savings and loan crisis—a crisis that has been aptly called the greatest financial scandal in our Nation's history. It is a crisis that is the direct result of the persistent effort of the past administration throughout the 1980's to ease and eliminate safeguards designed to protect our savings system. And unfortunately, some States followed the administration's lead by easing up on their role as watchdog and by putting on blinders to the risk-taking and speculation exploding around them. Deregulation swept through, accountability vanished, and countless forms of mismanagement, fraud, and greed rushed in to gamble away depositers' money and threaten the very existence of our savings and loans system. This debacle has threatened the economic future and human vitality of our country.

The cost of this saga of speculation and misconduct is already painfully evident. We are told that the taxpayers of this country may have to foot a bill of $500 billion over the next three decades to recover from this calamity. The immediate costs have pushed the Federal deficit back beyond $200 billion again, robbing us of the ability to make desperately needed investment in children, health care, infrastructure, rural America, and our Nation's competitiveness.

Mr. President, I know I speak for the people of my own State, West Virginia, and the entire country, when I say the punishment had better fit the crime. I recently read that the head of the Resolution Trust Corporation estimated that fraud and insider abuse played a major role in 60 percent—close to two-thirds—of the failed thrifts. Attorney General Thornburgh has characterized the string of failures as an "epidemic of fraud" and acknowledges the links to fraud and criminal conduct by bank insiders.

NOTICE

An interim issue of the daily Congressional Record will be published during the August adjournment in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-220 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., through August 15. The interim issue will be dated August 15, 1990 and will be delivered on August 16.

None of the material printed in the interim issue of the Congressional Record may contain subject matter, or relate to any event, that occurred after the adjournment date.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record during the adjournment may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 275-2226, between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

WENDELL H. FORD, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Clearly, fraud has been a major cause of this entire catastrophe. According to the Office of the Comptroller of the Currency, less than 10 percent of thrift failures were due to poor economic conditions. In fact, the House Government Operations Committee reported in October 1988 that more than three-fourths of all thrift failures were due to insider misconduct.

I challenge the President and his administration to take every conceivable action possible to ensure that justice is done. In the recent weeks, Congress has spoken loudly and clearly, urging a crackdown on the people and institutions responsible for the massive losses, and mammoth effort to recover every last retrievable dollar, and concerted action to prevent this kind of fraud and crime from ever occurring again.

I recently joined a number of my colleagues in cosponsoring tough legislation to pursue these critical goals. Shortly thereafter, the Senate attached this legislation, the Comprehensive Thrift and Bank Fraud Prosecution Act of 1990, as an amendment to the omnibus crime bill which we subsequently passed and now waits for expected House action. Our amendment is aimed squarely at strengthening and expanding the efforts of the Federal Government to prosecute those who are responsible for the savings and loan crisis.

Our legislation will allow the Department of Justice to more effectively prosecute the criminals who have essentially stolen more than $2,000 from the pocketbooks of each and every American. It provides for the creation of a special division within the Department of Justice to facilitate the development of criminal cases. It creates local strike forces to expand and toughen prosecution efforts. It increases penalties for fraud and embezzlement cases. It widens investigative powers for the FBI and Secret Service agents and allocates $203 million for 3 years to accomplish these goals.

Mr. President, I am angry. I'm angry for West Virginians and I'm angry for all Americans. I am angry that savings and loan executives who thought they were above the law recklessly spent the hard-earned savings of our citizens on airplanes, fancy cars, expensive homes, and lavish vacations, knowing all the while that their companies were in financial trouble. These bank executives and directors committed crimes as surely as any, common thief. We must prove to the people of the United States—the victims of this crime—that these greedy corporate executives are not above the law.

My constituents are as angry as I am. I have received hundreds of letters from West Virginians demanding action. One man in Jefferson County wrote that the least we can do is "make sure that the crooks don't go sailing off on their yachts." Mr. President, I agree.

My constituents not only are angry about the criminals who are getting away, but also are worried about what the $500 billion price tag means for the economic future of our country. I share this concern. One Marion County woman wrote,

> My husband and I are more concerned about the S&L scandal than anything that has happened since World War II, especially since we know it will cost as much.

That $500 billion cost is a tragedy and disgrace. We could have used that money to complete the Appalachian corridor system, which is vital to the economic development of the entire 13-State region. We could have financed a long-term health insurance plan for every American. We could have funded the WIC Program to guarantee decent nutrition to every pregnant woman, mother, and infant in America. We could have done all of this and still had tens of billions of dollars left. This money should be used to create jobs, shelter and feed our people, build roads and bridges, not to buy empty office buildings and underutilized country clubs in Dallas and Houston.

Mr. President, in West Virginia, our savings and loan institutions are generally stable—fortunately. They are healthy. The managers of the thrifts in my State avoided risky, speculative loans in the past decade and stuck to their original purpose—single family housing mortgages. Only two West Virginia savings and loans were seized by the Resolution Trust Corporation, representing 0.2 of 1 percent of all bad assets in the country. During 1989, our thrifts posted the second best percent increase in net income in the country, 35.2 percent, while the national average was a decrease of 53 percent.

In other words, West Virginia is one of the States where caution was not thrown to the wind by the people responsible for our savings system—the people who make up the chain of accountability, including Government officials, independent appraisers, outside directors, and savings and loan officials. Because of the self-restraint exercised in my State, our savings system is intact and is not piling bills onto the shoulders of taxpayers and future taxpayers. This is why the people of my State are so appalled. They may not be the source of this crisis, but they are definitely expected to be part of the solution.

West Virginians were not responsible for this crisis. If, however, we are forced to share the burden of cleaning up the S&L scandal, we demand that the criminals who are responsible be put in jail and be required to forfeit the profits they illegally reaped. West Virginians and I have no doubt all Americans want to see swift action. They deserve it. In this case, the victims are paying for the crime.

Mr. President, outrage over the cost of this debacle, and its cost to my constituents, led me to vote against the S&L bailout bill last year. I believe it is entirely understandable that the people of my State object to the administration's approach to cleaning up after the failed S&L's that rests on burden-sharing—when the same administration virulently fought a cost-sharing approach to cleaning up acid rain. How do I explain this to my State? To the State that lost more Federal aid during the Reagan-Bush years than any other State but one in proportion to population. To the State that was excluded from desperately needed housing aid that went instead to the political cronies and friends of HUD officials?

There is no good answer. And there is no way to wipe out the past. For the past decade I have been bothered and appalled, quite frankly, by the effects of an administration that seemed to promote greed. To me, it is not the Iran-Contra crisis, as bad as that was, that epitomized that administration's tenure. It was Ivan Boesky and Mike Milliken, who promoted and symbolized greed. What an awful message was sent to the young people of this Nation about what is important.

There is, Mr. President, plenty that can be done in the future to prove that crime does not pay, fraud does not go unpunished, and irresponsibility is not forgotten. In the near-term, we must commit the funds needed for the toughest, most effective law enforcement system possible to prosecute the S&L criminals.

As of February 1990, the FBI reports that it has had 21,000 referrals involving fraud in the financial services industry, but because of staffing shortages it has been unable to examine these complaints. The Department of Justice is receiving 8,000 referrals a month of the same nature and currently has 80,000 cases pending.

The FBI and U.S. attorneys' offices have requested 224 more FBI agents, 113 more assistant U.S. attorneys, and 142 more support staff. The Bush administration's budget allows for only 42 new agents and 26 more support staff positions. These extra positions are necessary in order for us to establish a more aggressive prosecution effort.

A recent study found that so far, only 2 percent of the cost of the bailout has been recovered in legal penalties. We need to increase the fines against financial services criminals in an attempt to recover at least some of the billions of dollars used to finance the bailout. We also must increase the jail sentences for these criminals.

The legislation we attached to the crime bill will allow prosecutors to go

after those assets which S&L executives illegally acquired. It will add over 1,000 new employees to help develop and prosecute criminal cases. The Comprehensive Thrift and Bank Fraud Prosecution Act of 1990 will require those responsible for the S&L scandal, the country's largest financial disaster ever, to pay for their illegal activities, as well as help taxpayers recoup some of their losses.

I am proud to have played a part in moving this important legislation forward. And I renew my pledge to the people of my State and the country to make sure that justice is served.

EXTENSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, as I understand, morning business ends at 9:30.

The PRESIDENT pro tempore. The Senator is correct.

Mr. KERREY. Mr. President, I ask unanimous consent that the period of morning business be extended to 9:45, and that I be allowed to speak for 7 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The Senator is recognized for 7 minutes and morning business is so extended.

THE S&L CRISIS

Mr. KERREY. Mr. President, I applaud the concern of the Senator from West Virginia for wanting to make sure that justice is brought to bear upon those who have stolen money from American taxpayers, his sense of outrage for the lack of progress in getting that done, and share the sense of loss of what could have been done with these resources.

We are told constantly that we have more will than wallet, that we are not able to help America's children, Americans in need of health care.

It was said yesterday by the Republican whip on the House side that Democrats are constantly wanting to tax and spend. The President's proposal for the savings and loan bailout is by far the largest spending program that has been proposed in this Nation, as the Senator from West Virginia said, perhaps in the history of this Nation.

I share the Senator's outrage at people who are going without having justice brought to bear upon them, but also what could have been done with these resources. I suggest one thing that has occurred to me, listening to the Attorney General say how difficult it is to bring white-collar criminals to justice, how difficult it is to bring a case like this, it might not be a humorous proposal to consider perhaps assigning some of the responsibility for getting the job done over to Baseball Commissioner Fay Vincent, who seems to be, recently at least, a bit more successful in making sure that people who abuse the system do get the justice they deserve.

I have spoken before about the current organization of the savings and loan bailout, and I find much at fault with it. I have spoken before about the way it is organized and the difficulty as a consequence of the way it is organized for us as Senators to be able to tell our taxpaying citizens where the money is going.

About $15.8 billion was paid out in the month of June, requiring in the month of June a considerable amount of unusual borrowing. It is going to be difficult to go home and say exactly how that money is being spent.

I think we need an independent commission rather than the commission of essentially people who are part of the current administration that would substitute for the policymaking group. It seems to me that it would give us a chance at least to turn around what I see, and that is the declining confidence of the taxpayers themselves that the money is in fact being employed directly. I think it is going to be increasingly difficult for us to go to our people to extract the tax dollars that are apt to be needed to pay for this thing.

When the President said $50 billion for 2 years, that was a difficult pill to swallow. Most of us said the money should be paid, a problem that needed to be solved. I would argue it is going to be increasingly difficult for us to get that done.

The chairman of the Resolution Trust Corporation last week said it would be a $100 billion this year. I ask my colleagues, are they going to be able to come here and vote for a $100 billion appropriation for a project that frankly we do not really know where the money is going?

There is the second problem that I have pointed out to the chairman of the Judiciary Committee in the letter that I ask unanimous consent be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 1, 1990.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Washington, DC.

DEAR JOE: I do not know how any Senator charged with the responsibility of watching out for taxpayers' dollars could help feeling a sense of betrayal reading the testimony given yesterday to your Committee's Subcommittee on Antitrust, Monopolies and Business Rights on the activities of Robert L. Thompson.

Robert Thompson was a friend of then-Vice President Bush and a close friend of many of the people who had authority over decisions which involved the use of large amounts of money. That he was able to gain access to an Inspector General's report on a client—a man indicted for a felony in Alabama and barred from financial holdings in that State—should outrage all of us.

That he was able to then approach the regulators, who had the job of evaluating the Inspector General's report, and actually help them prepare their response, takes my breath away. How is it possible for us to do any credible job of overseeing the money we appropriate when people with special access to the Executive Branch can manipulate important decisions?

It is terrifying to think that people like Mr. Thompson might be lurking about the Executive Branch waiting to help regulators answer questions from the Legislative Branch. News reports indicate that Mr. Thompson had an opportunity to suggest modifications to a reply that Federal savings and loan regulators sent to a Congressman who raised questions in 1989 about the eligibility of Mr. Thompson's client.

Mr. Thompson openly parlayed his experience as legislative director for Vice President Bush. He openly told his clients about access to top officials and his frequent contacts with Mr. Bush.

Mr. Thompson was not just blowing smoke. He eventually was successful in getting his client, the man indicted for a felony in Alabama, approved for a $1.85 billion government subsidy to purchase 15 Texas savings and loan institutions. He had earlier worked the same magic with the FDIC gaining approval for the purchase, under similarly attractive terms, of an Oklahoma bank.

Although the regulators now say they do not understand how this could have happened and claim that Mr. Thompson had no special access, Mr. Thompson's own correspondence tells a different story. It tells a story of a cozy relationship with the people who presided over the drafting of President Bush's bailout legislation as well as those who would be making administrative decisions.

Two of the most egregious examples were his contacts with Richard Breeden, the man credited with being the author of FIRREA and the current head of the Securities and Exchange Commission, and David C. Cooke, the executive director of the Resolution Trust Corporation. His manipulation of these two men is a sickening story.

One memorandum from Mr. Thompson's firm to a client told of an hour-long meeting on April 13, 1989, between Mr. Thompson and Mr. Breeden, who, at the time, was the top White House aide for the savings and loan cleanup and "an old friend from Bob Thompson's days in the White House." Mr. Breeden, according to the memo, sketched "some general guidelines which should prove helpful in evaluating an investment strategy."

The memo goes on to say: "Mr. Breeden expressed his belief that there would be many attractive investment opportunities in the implementation of the Bush plan" for the savings and loan industry. Mr. Thompson's firm believed that "serious inefficiencies likely to result in the first six months of this program will present very good opportunities."

Mr. Chairman, this is the taxpayers' money these guys are playing with. The citizens of Delaware and Nebraska are being ripped off by this kind of deal-making which, by the way, was taking place at the very moment President Bush was talking so

high and mighty about new ethical standards in his administration.

Mr. Thompson's defense: "I feel like the process has been unfair to me, and if I hadn't done a good job for my client, I wouldn't be having to have such an interesting summer." His words betray the kind of moral relativism required for influence peddling.

Mr. Thompson didn't stop with Mr. Breeden. Six days after the establishment of the RTC, he met with the corporation's top officials to discuss future investment opportunities. Mr. Cooke, "an old friend of Bob Thompson's," was "kind enough to spend 30 minutes with us in these hectic opening days of the RTC," a firm memo reads. It also declares that Mr. Cooke insisted that neither the FDIC or the RTC wanted to unravel any of the deals done in 1988.

The President came to us in his first message to Congress and asked for immediate passage of his legislation. He asked for an arrangement whereby the Executive Branch would control all of the decisions with very little oversight by Congress. Today, more than ever, I feel we made a mistake giving the Executive Branch so much control. Apparently the revolving door that President Bush talked about in his presentation for higher ethical performance was still spinning wildly.

Sincerely,

J. ROBERT KERREY.

Mr. KERREY. Mr. President, as a consequence of some hearings that are being held by the Senator from Ohio [Mr. METZENBAUM] his Subcommittee on Antitrust, Monopolies and Business Rights opened up to our view another problem with the current organization; that is, that it is possible for people who are well connected in the administration, with previous contacts with the administration, to continue this sort of revolving door abuse power that the President said in 1989 he was going to try to end when he talked about raising the ethical standards in Government.

In this case, the Senator from Ohio [Mr. METZENBAUM], has brought to our attention the activities of Robert L. Thompson, lobbyist and friend of Vice President Bush, and close friend of many of the people who have authority of the decisions that involve the use of large amounts of taxpayer dollars. He was actually able to gain access to an inspector general's report on one of his clients, use that inspector general's report, and then go talk to the regulators and advise the regulators how they ought to treat this particular client.

His client was indicted for felony in Alabama, and prohibited from being engaged in banking activities in that State. That was the issue. This friend of the Vice President, who openly declares his friendship and sells that friendship to his clients, was able, as a consequence, to get $1.85 billion in taxpayers' money to go to this particular bailout, not for a man who has been indicted for a felony in the past but for a man who put up $1,000 to get $1.85 billion in subsidies.

Further, this particular lobbyist, as a consequence of his contact with the administration, was able to actually get inside the regulator and advise the regulator as to how he ought to answer a letter from a Congressman who is concerned about this particular transaction. This lobbyist complains about being treated unfairly, but I would observe in fact he was not treated unfairly.

My concern is this kind of activity, as a consequence of the way we have organized this particular bailout, is in fact encouraged. This individual had close contacts with Mr. Breeden, current head of the SEC, the man responsible for giving credit, for drafting the FIRREA legislation, and with David Cooke, Executive Director of the Resolution Trust Corporation. In his own memorandum, Thompson's own firm's memorandum, he makes some statements that I personally find appalling, indicating that he is getting information that the rest of the public is not getting, that he is getting information that in his mind at least provides "some general guidelines which should prove helpful in evaluating an investment strategy." Perhaps the most troubling statement of all is that Mr. Thompson says that, "Serious inefficiencies likely to result in the first 6 months of the operation of this particular venture will present very good investment opportunities."

Mr. President, the very sort of thing that the President of the United States, President Bush, talked about early in his administration, the kind of ethical and moral relativism that permits people to trade influence, is currently, I would observe, encouraged as a consequence of the way this thing is organized. I believe our colleagues should increasingly pay attention to the lack of information we have.

I appreciate the Chair's indulgence. I yield the floor.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURNS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized.

MONTANA WILDERNESS

Mr. BURNS. Mr. President, I have a statement regarding an issue in the State of Montana that is a very troubling issue, and has been a very hard issue to work out and to deal with.

During the past year or so, the people of this country have witnessed the revolutionary emergence of democracy around the world. The people in Eastern Europe and elsewhere are struggling now to create new representative governments. How clearly do they welcome and appreciate their newfound freedom to participate in the democratic process.

In this country, the trend is disturbingly to the contrary. We pay great respect in words to our freedoms and representative government, but more and more frequently we seem to forget or ignore how important the democratic process is to us, and how jealously we must insure that it works.

Fewer and fewer Americans register to vote, and of those who do, even fewer actually exercise that right. Many Americans feel disenfranchised—powerless to have an impact on the decisions that shape their lives. It becomes even more important, then, for representatives of the people, as I have the privilege of being, to remember and respect the fundamental principles of democratic government that make our country great.

In our haste or eagerness to resolve our problems, neither Congress, nor the people it represents, should short circuit the process. No matter how difficult the problem, no matter how tired we are of dealing with it, the end of finding solutions cannot justify means which violate our basic principles of fairness, due process, representation and majority rule.

Unfortunately, these principles of being bent and abused at this time in my home State of Montana. The subject is certainly important, although not so critical that a solution is worth the high price of ignoring our principles.

The issue I am speaking about is wilderness, and more specifically, wilderness designation without representation.

Mr. President, the issue I am talking about is the wilderness issue. It has been one of the issues in the State of Montana that is of very real concern to everybody in our State. No matter where you come down on the issue, it is of great concern and at times very disappointing.

To most of you who do not live in the West, wilderness means vacations, wildlife, and tranquil scenes on posters and in travel magazines. But for those who live within the shadows and the sight of those areas that would be considered to be set-aside and preserved, it means much, much more. It is for them a way of life and a cause for others. It is a threat of jobs and security for others. It is the battleground on which there was sharply divergent views and clashes.

Montana contains 10 national forests. Groups and individuals with in-

terests in two of those forests recently met privately and reached as agreement among themselves on designation of wilderness acres in the Lolo and Kootenai National Forest.

The groups and individuals who reached those accords are not representative of all the affected interests. People excluded were environmental groups, farmers and ranchers, loggers, miners, snowmobilers, recreationists, and others. People left out had no say in the matters which affected their jobs, their businesses, their recreation, and the communities, and for that matter the entire State of Montana.

Provisions in the process of these accords will set a precedent for the other eight forests in Montana and eventually for the BLM lands in the eastern part of the State.

The accords for the two forests have been introduced as a bill by my distinguished colleague, Senator BAUCUS. Those who put this proposal together are now demanding that the accords be enacted into law without change. Others, exhausted from years of watching the unsuccessful struggle to resolve the issue, are demanding that the accords be accepted as is. Anyone who stands in the way is branded an obstructionist.

In their zeal to get this matter behind them, those who make these demands are doing violence to the process. The price is too high. If we ignore the legitimate interests of the many people who were left out of the process—which is the vast majority of Montanans—we are turning away from our own principles and creating even more disillusionment and disenchantment with our institutions.

Perhaps I am too new and idealistic, perhaps I am not as war weary yet as the others, but I am not going to let the process, in the name of expediency, ride roughshod over so many Montanans. I am going to fight to ensure that the concerns of these people are not ignored by their elected representatives.

I wish to guarantee a fully representative process by offering an amendment to Senator BAUCUS' bill which would create a broadbased, bipartisan Citizens' Advisory Council to review the controversial areas and make recommendations to Congress. The idea for such a council is not mine—Senator BAUCUS suggested that some months ago. The council would review the accords; if those accords are as fair and representative as the authors claim, then they have nothing to fear from my amendment.

Not very many people in this country live where there is large acreage of Government-owned land. And there are times when the Government is not a very good neighbor, when most of us rely on good neighbors to build our neighborhoods, both in the social aspect of a neighborhood and also in the economic aspect of the neighborhood.

Those who oppose the idea of a citizens council are taking a position which is inconsistent in principle and difficult for me to understand: They want me to be bound by the accords reached by a self-appointed group which excluded many legitimate interests, but they are adamantly opposed to being bound themselves by a representative, bipartisan council which my proposal would create.

I intend to keep on working for fair and reasonable compromises. We have come a long way to try to meet the demands and the ultimatums that have been laid down and most times inconsistent ultimatums. We have tried to find a way to solve this issue.

In the meantime, I want the legislative process to move forward. I have asked Senator DALE BUMPERS, of Arkansas, chairman of the subcommittee that oversees this, to hear the bill that has been presented on the two forest accords as soon as possible to permit those parties who were excluded from the process to voice their concerns. I ask that the hearing be held in Montana, but a hearing anywhere is better than none at all.

I realize what the chairman is going through because we have heard this over and over time and time again. The evidence presented at the hearing will show that the amendments are needed to make the bill acceptable to the majority of the people that are affected, and they are the citizens of Montana.

A hearing is essential. This bill has not been heard by Senators who will be asked to vote on it. Formal meetings held in Montana were conducted before the bill was ever drafted. The precise provisions of the proposal were not even available to the public, or to me at the time of those informational hearings.

I have been told that I must agree with the accords and the bill of my distinguished colleague from Montana, Senator BAUCUS, first, in order to get a hearing. A hearing under those circumstances is almost meaningless. One way or the other, I am going to stay and dig in and fight hard to see that Montanans have a say in wilderness decisions that affect their lives and neighborhoods through a citizen advisory council and a Senate committee hearing on a two-forest bill. To do less would be to abuse principles of representative government, because right now what we have is wilderness designation without representation.

We need to do this. It is my obligation to the people of Montana and to the people of this country who rely on the resources of public lands, also, for their livelihood and their well-being.

Mr. President, I yield the floor.

THE ACTIONS OF SADDAM HUSSEIN

Mr. D'AMATO. Mr. President, last evening we learned that which a number of us had expressed concerns about, and that is, Saddam Hussein—and some have made light of Mr. Hussein and his actions—that he did that which most said he would never do and sent his troops, his hordes that were massed, into Kuwait.

Mr. President, I have been accused in the past of being too outspoken about him. Indeed he is the new Hitler of this era. He has committed acts of genocide against his own people. He now negotiates very much like Mr. Hitler during World War II and strikes under the cover of those negotiations. Here we are pleading, do not pass an act that might get him annoyed; do not cut off credits to him.

Mr. President, the United States should enact a policy immediately, forthwith, of total embargo. Today we are processing hundreds of thousands of barrels of oil. We take 600,000 barrels of oil from Saddam Hussein. Now he seized Kuwait, and their oil production will obviously fall within his domain. I hope this country will immediately impose an embargo and not get into this business of, "will it affect us?" Stock prices are at an all-time high.

I intend to introduce a sense-of-the-Senate resolution calling for this action, total embargo, and it is about time we got our allies to join with us, and find out whether they are really allies or not, whether they are going to work with us or wait until the situation deteriorates far more.

It is about time we said to Japan, whose interests we have protected time and time again in the Persian Gulf, what are they going to do, or, if they are going to have it both ways and literally sell us out, because indeed in the past, that has been their action. When we have attempted to stand up to whether it is the Iraqis or the Iranians, they did business as usual, openly, instead of joining with us.

It is about time that those who call themselves friends of the United States—and we have befriended them, Western Europe, Japan, and the freedom-loving nations of the world—join with us in making Iraq the outlaw that she is, the pariah, and put her outside of the normal realm of business as usual. Except for condemnations, that is not enough.

Here we have the mad dog undertaking that which—people said, you know, he is reasonable, he even sent a representative to the chemical weapons confab.

Well, Mr. President, I hope that we have learned that our lessons of doing nothing, I believe, have encouraged Mr. Saddam Hussein to take an action,

because he feels that the United States and, yes, our allies, will do nothing to curtail his activity.

Mr. President, I intend to offer a sense-of-the-Senate resolution later today.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time for morning business has expired.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FISCAL YEAR 1991

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of H.R. 5019, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator form Louisiana.

Mr. JOHNSTON. Mr. President, the situation is that there are two amendments that are due for debate this morning, the McClure amendment and the Stevens amendment. We hope that the other amendments in the order will not be offered; that is, the Baucus amendment and the Gore amendment. And we hope that Senator BOSCHWITZ will not ask unanimous consent to bring up his amendment.

So we are awaiting action, and we are ready for the McClure amendment at this time.

The PRESIDENT pro tempore. The Chair calls attention to the remaining minutes. Mr. JOHNSTON has 6 minutes, 31 seconds remaining for debate. Mr. HATFIELD has 8 minutes 45 seconds. Mr. NUNN has 39 minutes and 4 seconds.

Does the Senator from Idaho wish to be recognized.

Mr. McCLURE. Yes.

The PRESIDENT pro tempore. The Senator is so recognized.

AMENDMENT NO. 2491

Mr. McCLURE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho, [Mr. MCCLURE,] proposes an amendment numbered 2491.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

"The Secretary of Interior is authorized and directed to pay, without reimbursement, $1,000,000 to the Fall River Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project.".

The PRESIDENT pro tempore. There is 10 minutes on this amendment.

Mr. McCLURE. Mr. President, very briefly—and it must necessarily be very brief—in 1985 a rural electric cooperative in Idaho applied for Federal Energy Regulatory Commission license for their Island Park project. It is a very sensitive project, because it is on the Henry's Fork fork of the Snake River, which discharges water in the Henry's Fork-Snake River at an existing dam. A power project would be added to the existing dam.

The environmental concerns are extreme. I authored legislation which would erect much higher standards and guarantees than ever before applied to any electric project anywhere in the United States. Project sponsors were willing to undertake those guarantees, did not resist it, but embraced those guarantees.

In the length of time it took them to make the guarantees and process it through FERC, however, the time for energy tax credits had expired.

We attempted to get an extension of the energy tax credits for this project, so they would not be caught by the barriers that we had erected. We were not successful in getting the energy tax credits extended.

I think the project sponsors are in good faith and have been in good faith through this entire effort. I feel a personal responsibility toward them, and I urge that there be the opportunity for them to go forward, and this amendment makes it possible.

Mr. President, it is important that this amendment be adopted in order to rectify a problem created by Congress. Let me explain what occurred so that my colleagues understand the reasons and need for this amendment.

The story begins back in 1985 when Fall River applied to FERC for a license for their Island Park project. As is the case with any hydro project, even one such as this, which is located at an existing dam, there was considerable environmental concern. As a result of those concerns, I personally visited the project site in the summer of 1986 and discussed those concerns which focused on the project's potential impact on fish.

As a result of those discussions, an agreement was reached by the project sponsors and those who were concerned about what environmental protection measures were needed. Included in those discussions were representatives of the Henry's Fork Foundation, the Idaho Sportsman's Coalition, the Henry's Fork Anglers, and the Federation of Fly Fisherman.

As a result, in what was a very unusual and unique procedure, I added a special provision to the Electric Consumers Protection Act of 1986 [ECPA] to make absolutely sure that there would be no untoward environmental impact as a result of the construction of this project. Let me read the relevant part of section 15(c).

* * * the Commission may issue such license only if the Commission determines that significant and permanent alteration of streamflow, habitat, water temperature, and quality will not occur as a result of the project.

It is important to note two things about this provision of ECPA. First, it is a far higher standard than that which the FERC normally imposes on a project. And second, this standard applies to only one project in the United States—Island Park.

The intent of Congress when addressing the Island Park project in ECPA was to allow the project to be built in a timely manner but with appropriate environmental safeguards. Unfortunately, we did not foresee the delays that we would unintentionally create by our addition of these special environmental requirements.

In December 1986 a project advisory committee was formed—which included the groups already mentioned—to work out the license terms necessary to meet ECPA's environmental standard. In July 1987 the Advisory Committee's recommendations were sent to FERC. However, it was not until October 1988 that FERC finally issued the license, nearly 2 years after the original, pre-ECPA, anticipated licensing date.

Now all of this ECPA-induced delay would have been frustrating, but of no real consequence, except for one key factor—the expiration of the special energy tax credit.

The Windfall Profits Tax Act of 1980 provided an 11 percent tax credit for hydro projects, but the law provided that they must be placed in service by December 31, 1988 in order to qualify. The project sponsors relied on those tax credits when they developed their financing package, and they had no idea—or reason to assume—that Congress would effectively undercut those financial assumptions.

The project finally received its license from FERC, but only 2 months before the date it was required to be placed in service in order to qualify for the tax credit; and that simply made it physically impossible to qualify for the tax credit. Thus, had Congress—albeit at my request—not imposed unique environmental requirements on this project it could have, and

would have, been built in time to receive the credits. But we did, and they could not. And without the tax credit—or an amount equivalent to the tax credit—the project is uneconomic and will not be built.

Now the obvious thing to do would simply be to extend the tax credit. And as I mentioned earlier, I tried to do just that, but those efforts were opposed.

On October 11, 1988, when the Senate was considering the technical corrections to the 1986 Tax Reform Act, I offered an amendment on behalf of myself and Senators WALLOP, SIMPSON, SYMMS, and MELCHER to extend the in-service date for 2 years. That would have fixed the problem Congress created. But unfortunately, although it was on the approved list of amendments to be offered, Senator BAUCUS objected. And as a result, the amendment was not adopted. Had that amendment been adopted, we would not be here today.

In summary, let me restate the fundamental reason why this legislation is warranted: because Congress imposed unique environmental requirements on this hydro project, it was unable to be placed into service in time to qualify for the tax credit. That is Congress' fault, not the project sponsors' fault.

It would be unfortunate if this project failed as a result of the actions of Congress. The tax law provided an incentive for these types of projects and in this instance, the project sponsors willingly sought to satisfy all concerned. Let me read an except from a statement submitted by Ron Mitchell, executive director of the Idaho Sportsmen's Coalition, in support of this legislation which I believe makes this point.

> The Idaho Sportsmen's Coalition believes the good work that has gone into this project should not be in vain. We also believe that the project may actually benefit long-term management of the Henry's Fork. But above all, it is our feeling that when a developer makes an effort to do things the *right* way, and particularly to involve our members in the process through an Advisory Committee, that we should stick by our relationship with them and support their efforts to correct an unforeseen financial dilemma. We do not believe that Congress generally has an obligation to pay for the financial repercussions of its actions on industry when passing generic laws, but where, as in this case one project was singled out to meet special conditions applicable to no one else, and has met those conditions, we believe that you are presented with a fair, indeed compelling, case to provide relief.

In conclusion, let me say that this bill is supported by the Governor of Idaho, both Senators from Idaho, both Senators from Wyoming, and both Senators from Montana. In addition, it has received the support of a number of environmental groups.

Mr. President, it is for these reasons that I urge my colleagues to support this amendment.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON] is recognized for 1 minute.

Mr. JOHNSTON. Mr. President, I wish I had time fully to go into the record of the distinguished Senator from Idaho. I do not have that time, but suffice it to say that the Senator from Idaho, the senior Senator, Mr. MCCLURE, is one of the most outstanding Members of this body with whom I have had the opportunity to serve. In a word, I believe he is a statesman who has conducted himself in the very highest traditions of this body, and it has been my pleasure to work with him on the Committee on Appropriations, also on the Energy and Natural Resources Committee.

As I say, I do not have time to go into a thorough exegesis on his record. If I did it would be even more glowing than those few words can reveal.

Having said that, Mr. President, I must very reluctantly oppose this amendment. It constitutes really an end run around two authorizing committees, the Committee on Energy and Natural Resources and the Finance Committee. This amendment also is strongly opposed by the environmental community and the executive boards. I will, therefore, have to oppose it.

I yield to the Senator who has jurisdiction in the Energy Committee, the subcommittee that has jurisdiction of this matter.

I yield to the Senator from New Jersey 2 minutes.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 2 minutes.

Mr. BRADLEY. Mr. President, first, let me say I understand the predicament Senator MCCLURE finds himself in with actions that delayed the hydro project and, therefore, the energy tax credit was lost.

This is an issue that boils down to one very simple one. The corporation lost the tax benefit. It now wants the Federal Government to write a check to pay in cash what it lost in the tax benefit. That is what this is all about.

The hydroproject received approval in 1988. The delay of the license by the regulatory requirements, perhaps those that were put in by Senator MCCLURE, delayed them beyond the date of the energy tax credit eligibility. They lost the energy tax credit.

They now come to Government and say they will not proceed with this hydro project and make the required environmental expenditures unless the Federal Government pays $1 million, that would have come through an energy tax credit.

Mr. President, we have environmental laws to protect the environment. This is one of the best trout streams in the world. The hydropower license was granted only assuring that environmental measures would be taken to preserve the stream. The company calculated it could pay for these measures with an energy tax credit. The regulatory delay caused them to lose the energy tax credit, and now they say they will not proceed unless the taxpayers pay $1 million.

Mr. President, imagine how many other taxpayers in this country lost projects because of an expiration of tax credit through the 1986 act. This is a case which if we begin down this road you will find hundreds and hundreds of people coming to Congress to seek through the appropriations process what they lost because of changes in the Tax Code.

The PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Idaho [Mr. MCCLURE].

Mr. MCCLURE. I yield 1 minute to the Senator from Montana [Mr. BURNS].

Mr. BURNS. Mr. President, I thank the Chair and I thank my ranking Member on this committee. There is something more that goes a little bit further than just how everything unfolded in this issue. Senator MCCLURE and others have described the specific circumstances surrounding this project and why this bill is necessary.

From our standpoint the State of Idaho and of course, western energy people, when completed it will be able to provide electrical power to all smaller communities in Montana as well as others in Idaho and Wyoming. Electricity is essential for economic growth in most of those villages. Rural electrification is very important to the Western United States.

Mr. President, I want to offer my strong support for H.R. 3694. This bill is necessary to allow a small local rural electric cooperative to continue with the development of a hydroelectric project in Island Park, ID.

Senator MCCLURE and others have described the specific circumstances surrounding this project and why this bill is necessary. Because of the actions of Congress in requiring additional environmental standards be met prior to the issuance of any FERC permit the operators missed the deadline for receiving tax incentives allowed for hydro projects. These tax incentives were very important to the total financing package for the project.

The additional environmental requirements have caused a 2 year delay in completing the project. Without passage of this bill the project may

have to be scrapped altogether. This is not a case of damning another river in the American West. It is a case of using an existing facility to provide for the electrical needs of our growing Nation.

I am most interested in this project because, when completed, it will be able to provide electrical power to small communities in Montana like West Yellowstone as well as to others in Idaho and Wyoming.

Rural electrification is very important to the Western United States. Projects such as this one ensure a future supply of power to rural areas without the need to continue damning our remaining rivers.

This project has met all the environmental requirements and is headed on the path to success. I strongly urge you to take action quickly on this bill and allow for this projects final completion.

I thank the Chair.

The PRESIDENT pro tempore. The time allotted to the Senator has expired.

Mr. McCLURE. Mr. President, I yield 1 minute to the Senator from Montana [Mr. BAUCUS].

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. BAUCUS. Mr. President, I thank the Senator from Idaho.

Mr. President, I rise in whole hearted support of the amendment offered by the senior Senator from Idaho, Senator MCCLURE.

This amendment would appropriate $1 million dollars that is in essense, a congressional grant of equitable relief. In 1986, this small hydroelectric project in Idaho was singled out specifically to meet exacting environmental standards prior to the granting of its opening license.

To meet these standards the projects proponents engaged themselves in exhaustive and detailed environmental studies and analysis. A planning board composed of State and Federal environmental officials as well as local citizens and outdoor sportsmen convened to review operating plans and environmental safeguards. Plans were reviewed, adopted, rejected and modified until, at last, there was agreement on a single operating plan that answered virtually every environmental concern.

However, by that time, the projects ability to apply for tax credits necessary for the capitol financing of construction costs had been taken from it by a change in the 1986 tax bill.

While the projects proponents had satisfied every single environmental concern raised by Congress, the process of meeting the congressional burden of proof cost them their ability to finance the project. This was as unfair a catch-22 situation as I've seen in some time. Sponsors of this project were damned if they didn't, and damned if they did.

In 1988, I was floor manager of the tax bill. Island Park had by that time lost their opportunity to apply for the necessary tax credits. And because of the Finance Committee's prohibition against rifle-shot exemptions I was constrained to oppose a tax credit extension for this project. However, I resolved that I would look for some other solution for this project.

Mr. President, in the fairly short run this appropriation will not negatively impact the U.S. Treasury because it will be more then offset by payroll and other taxes arising from the project's construction. It is reasonable to assume that long-term, the project will have favorable returns to the Treasury.

I would conclude by noting that the West, which several yers ago was identified as having a surplus of installed electric generating capacity, has now experienced such rapid growth that new sources of power are needed immediately. Island Park can help meet this need in an environmentally acceptable manner. And significant amounts of this clean and economical power will be supplied to residents in my State of Montana.

The time for this project has been postponed for too long. There is a real need for this power in my area of the country. And a real injustice originating from this body can be corrected here and now.

Mr. President, I urge my colleagues to grant the equity relief to this project.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself 1 minute.

The PRESIDENT pro tempore. The Senator has 50 seconds remaining.

Mr. McCLURE. I yielded 3 minutes. How do I have 50 seconds remaining?

The PRESIDENT pro tempore. The clock so states. The Senator used over 1 minute himself in the beginning.

Mr. McCLURE. Mr. President, in the time I have let me just say that the statement made that the environmental organizations oppose this project is totally false. The Idaho Sportsmen's Coalition testified in favor of it. It is made up of Boise Valley Fly Fisherman, the Nampa Rod and Gun Club, the Foundation for North American Wild Sheep, the Fly Fishers of Idaho, the Idaho Wild Turkey Federation, the Island Empire Conservation Council, the Idaho Free Trappers, the Idahoans Wildlife Enhancement, the Gem State Fly Fishermen, and Fisheries West, and they testified in the hearing that was held on this matter last week in support of the measure.

I wish I had time to tell the Senate exactly what they said. But there is no environmental opposition. They say as a matter of fact it may enhance the conditions on the Henry's Fork of the Snake River.

The PRESIDENT pro tempore. The Senator from Louisiana has 1 minute and 26 seconds remaining. The time is running.

Mr. JOHNSTON. Mr. President, how much time is remaining.

The PRESIDENT pro tempore. The Senator has 1 minute and 4 seconds remaining.

Mr. JOHNSTON. Mr. President, I yield the remainder of the time to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, the environmental requirement, as the distinguished Senator from Idaho believes that he imposes because of changes in the Electrical Consumers Protection Act, would very well have been imposed even without that act under the Federal Power Act. In fact, it is quite unlikely that you would find a Federal stream of world quality trout stream that did not have assurance that the habitat, water temperature, steam flow and quality would be protected.

This boils down to a corporation lost a tax benefit and now wants the Federal Government to write a check to pay in cash what it lost in the tax benefit. Mr. President, this is the wrong direction for us to head. It will have no end. There will be a number of people back in here to seek redress through the appropriations process for things that they lost in the Tax Code. I urge that this amendment be rejected.

The PRESIDENT pro tempore. The time of the Senator has expired.

All time has expired on the amendment. The time is running on the debate time.

Time is running on the debate time.

Mr. SYMMS. Mr. President, I rise in support of Senator MCCLURE's amendment to this energy and water appropriations bill.

In 1986, Congress approved the Electric Consumers Protection Act [ECPA] (Public Law 99-495) which named a single hydroelectric project by name and FERC project number for additional new, unique, and project specific licensing requirements. Called the Island Park Hydroelectric Project, it had met all of the requirements of the law and had filed on time to qualify for the energy tax credits needed to complete construction of the dam. This project was fully permitted by FERC and the State of Idaho when Congress imposed these onerous licensing provisions, forcing the licensing process to begin anew. Consequently, the project was not finished by December 31, 1988, when the tax credit expired.

The argument most used for not correcting this inequity in the past is that tax credit extensions for a particular project are so-called rifle shots. As a

member of the Senate Finance Committee, I can tell you that the other problem has been the lack of a major tax bill since 1986. Without such a legislative vehicle it has been difficult for Senator McCLURE or I to attach a tax credit extension amendment because of the Byrd rule.

So today Congress has an opportunity to correct the wrong committed against those who unknowingly depended on a tax credit that was later removed by another act of Congress. It is up to Congress, who created this inequity, to remedy the situation by extending the energy tax credits to December 31, 1991. We can do this by voting in favor of Senator McCLURE's amendment.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDENT pro tempore. Is the demand sustained? The demand is not sustained.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. On whose time? Neither Senator has enough time for a quorum call.

Mr. McCLURE. Mr. President, I believe under the Constitution of the United States I am entitled to ask for that a quorum call be established.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained?

The demand is sustained.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] is necessarily absent.

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—76

Adams	Garn	Mitchell
Akaka	Gore	Murkowski
Armstrong	Gorton	Nickles
Baucus	Gramm	Packwood
Bond	Grassley	Pell
Boren	Harkin	Pressler
Boschwitz	Hatch	Pryor
Breaux	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Helms	Rudman
Burns	Humphrey	Sanford
Chafee	Inouye	Sarbanes
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simon
Cohen	Kasten	Simpson
Conrad	Kerrey	Specter
D'Amato	Levin	Stevens
Danforth	Lieberman	Symms
DeConcini	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Exon	McClure	Wirth
Ford	McConnell	
Fowler	Mikulski	

NAYS—23

Bentsen	Glenn	Leahy
Biden	Graham	Metzenbaum
Bingaman	Hollings	Moynihan
Bradley	Johnston	Nunn
Byrd	Kennedy	Robb
Cranston	Kerry	Roth
Daschle	Kohl	Sasser
Dixon	Lautenberg	

NOT VOTING—1

Dodd

So the amendment (No. 2491) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. Who seeks recognition?

Mr. JOHNSTON. Mr. President, how much time do I have on the bill?

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON] has 6½ minutes.

Mr. JOHNSTON. Mr. President, the Senator from Minnesota wishes to engage in a colloquy. How much time does the Senator need?

Mr. BOSCHWITZ. Certainly the colloquy will not exceed 5 minutes.

Mr. JOHNSTON. I yield to him 4 minutes for the purpose of engaging in the colloquy. If that is not enough, we will request some more.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 4 minutes.

Mr. BOSCHWITZ. Mr. President, it is my intention not to offer the amendment about which I spoke at a late hour last night. My good friend from Oregon has persuaded me of a number of things: First, that it would not be in the interest of moving this bill forward; second, that even though the totals on this bill exceed the amounts that the President has asked for—and my amendment would have restored the bill to the amount that the President had asked for, $20.2 billion—nevertheless, the amounts came within the budget resolution that was passed from the Budget Committee.

While I voted against that resolution, nevertheless, that resolution did give direction to the Appropriations Committee. Inasmuch as the Appropriations Committee stayed within that framework, I feel I should withdraw my amendment.

In addition, I am aware that the distinguished chairman of the committee——

The PRESIDENT pro tempore. The Senate will be in order. The time that has been consumed in getting order, will not be charged against the Senator. The Senator will please proceed.

Mr. BOSCHWITZ. Mr. President, also, I recognize the budget summit is going to put heavy pressure on all of these appropriations bills and that the disinguished chairman and the subcommittee chairman will be compelled, perhaps, to bring their figures down because of that.

So I am going to see what happens as the days roll on, and I will withdraw my amendment at this time.

As the distinguished Senator from Oregon has pointed out to me, we are within the framework of the budget resolution that we passed here in the Senate, and in a practical matter, the budget summit may impose some of the restraints that I have in mind.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I very much thank the distinguished Senator from Minnesota for not pressing his amendment. I think his statement about the present status of budget reductions is correct; and that is, if the summit does impose an overall reduction, we suspect it will fall on all committees, and that whatever we have done up to that point, even if a bill has passed the Congress and has been signed by the President, that we suspect we would have to come back in and do whatever the budget summit orders, even if it calls for rescissions.

We think, as a practical matter, that the bill probably could not be signed before that summit agreement is out. But, in any event, it will be a discipline that will be imposed.

This bill is consistent with the 302(b) allocations and, of course, the 302(a) allocation, which is the allocation to the entire Appropriations Committee, and is consistent with the budget resolution passed by this Congress.

I very much thank the Senator from Minnesota, and we share his concern for meeting the budget talks.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, I yield myself whatever time I need.

Mr. President, I associate myself with the comments made by the chairman of the committee, Senator JOHNSTON, in response to the inquiry of the Senator from Minnesota, and indicate that I fully agree and subscribe to his response.

I would also add one further historical point, and that is we have a case very specific at hand to demonstrate the way in which this would be handled following the summit. We had the same thing in 1987 in the so-called Rose Garden summit in which we revisited the appropriations process in the light of those new constrictions placed on spending by that summit. We should also remember the role we took in waging war on drugs and we adopted a certain fiscal commitment for that war. We then again revisited the impact upon the appropriations process.

So that we have had these instances of the past to demonstrate the capacity as well as the responsibility of the appropriators to accommodate to those new ceilings, those new constrictions that follow passage of a bill or two bills or three bills known as appropriations bills.

Mr. BOSCHWITZ. I thank both the chairman and the distinguished ranking member.

The PRESIDENT pro tempore. Who yields time?

SUPERCOMPUTER TECHNOLOGY

Mr. GORE. Mr. President, I am very pleased that my colleague, Senator JOHNSTON, and the members of the Appropriations Committee recognize the importance to this country of developing new supercomputer technology and applications. It is essential that the United States continue to be at the leading edge of computing technology. It is my hope that the Department of Energy through funds appropriated in this bill could begin to lay the groundwork for the creation of a high-performance computing program at the Department.

Mr. JOHNSTON. I share my colleague's interest in seeing the United States continue its leadership in the field of high-performance supercomputing. I also believe that the Department of Energy has a significant role to play in the development of new supercomputing technologies and applications and that laying the groundwork for such an undertaking is essential. This bill provides hundreds of millions of dollars for research and of this several tens of millions support supercomputer research and applications. This funding will be used by the Department to define and develop in the coming year a high performance computing program.

Mr. GORE. It is my belief that the Department of Energy and particularly its national labs are uniquely situated to help ensure that America's scientists and engineers, our universities and our industrial laboratories have access to the supercomputers they need. The Department of Energy can play a very important role in developing this new and important technology as part of a governmentwide supercomputing program coordinated by the Office of Science and Technology Policy in accordance with the legislation now being worked out by the Commerce and Energy Committees, based on the Commerce Committee's S. 1067 and the Energy Committee's S. 1976.

Mr. JOHNSTON. The DOE and its national laboratories have extensive supercomputing facilities and a great deal of expertise in computing research and development. This technology offers so many exciting opportunities and it is essential that the Department of Energy take a major role in a coordinated Governmentwide program and work with OSTP in the development of such a program.

Mr. GORE. I thank my colleague for his explanation of the role he sees appropriate for DOE in developing supercomputer technology and applications.

CENTRAL UTAH PROJECT

Mr. GARN. Mr. President, yesterday, the House Committee on Interior and Insular Affairs reported out a significant piece of legislation which increases the spending authority necessary to complete the central Utah project.

This bill, when enacted will redefine the role of the Bureau of Reclamation relative to the responsibility of managing the construction of project features. It is the intent and hope of the entire Utah congressional delegation that this new approach will enable this project to be completed at a significantly less cost than under the traditional approach.

It is important for the Bureau of Reclamation to continue full speed ahead on completing those project features which are being funded in this appropriations bill and it is my expectation that the Bureau will cooperate fully with the delegation and the Central Utah Water Conservancy District in the transition of this project as provided for in our authorizing legislation. I want to make it clear, however, that nothing should impede the Bureau's activities under the current construction program pending final congressional action on the authorization bill.

MITIGATION STUDY OF SNAKE RIVER LEVEE SYSTEM

Mr. SIMPSON. Mr. President, I join my fine friend and colleague, MALCOLM WALLOP, in introducing necessary funding for a most important environmental study concerning the Snake River system near Jackson Hole, WY. I appreciate the willingness of Senators JOHNSTON and HATFIELD to carefully hear our request and to accommodate this important need.

For years now, we have been working with the Corps of Engineers regarding the operations and maintenance responsibilities for the Snake River levee system. In fact, my predecessor, Senator Cliff Hansen, worked long and hard on this very important problem during his tenure in the U.S. Senate. Finally, now—in this, Wyoming's centennial year—will be the first year that the corps has agreed that it is their responsibility to maintain both the Federal and non-Federal levees in advance of the levee damage that is inevitably caused by spring flooding. In Wyoming, we now look forward to working with the corps toward a coordinated and efficient levee system that is prepared for the often dramatic spring run-offs, and one that will now be managed more properly than on an annual emergency basis.

There are also some very important impacts on the environment which have been caused by the levees—that too, must be addressed. Certain sections of the Snake River have suffered stream bank and island erosion, loss of valuable trout habitat, and damage to important fish spawning areas. The damage to the Spring Creek area is especially apparent. Maintenance of the levees during certain times of the year will also impact the bald eagle population in the area, and this requires a special degree of planning and precaution. In order to begin the necessary work to address these areas of need, the Corps of Engineers and the Fish and Wildlife Service have recently entered into an agreement to determine the extent of their respective responsibilities in a formal mitigation study. Today, MALCOLM and I are thus seeking $450,000 to fund this 1-year study.

This study was authorized by the Environment and Public Works Committee on June 12. The Community of Jackson and Wyoming are very anxious to begin to see the actual work begin which will protect and enhance this magnificent river. We do appreciate your consideration and acceptance of this amendment.

INSTITUTE OF NUCLEAR MEDICINE

Mr. LAUTENBERG. Mr. President, I would like to discuss with the Senator from Louisiana an issue that arose recently concerning the location of construction of the Institute of Nuclear Medicine facility in New Jersey.

To date, Congress has appropriated $10.5 million for the construction of the Institute of Nuclear Medicine in Newark, NJ. The Department of Energy signed a grant agreement with the Center for Molecular Medicine and Immunology for the construction of this facility in Newark, NJ. Through a joint venture agreement signed by the University of Medicine and Dentistry and the Center for Molecular Medicine and Immunology, this program was envisioned as a collaborative effort.

The site envisioned for the construction of this cancer project was on the university campus. Attorneys for the Department of Energy have informed me that they believe the legislative history of this project links construction of this facility to a site at the university in Newark, NJ.

Is the Senator aware of the Department of Energy's analysis of the legislative history on this project?

Mr. JOHNSTON. Mr. President, Yes. I understand that Department of Energy attorneys believe that, based on the legislative history, this project needs to be built at the University of Medicine and Dentistry of New Jersey in Newark, NJ.

Mr. BRADLEY. Mr. President, is the Senator aware that the joint venture agreement between the University of Medicine and Dentistry and the Center for Molecular Medicine and Immunology has been severed?

Mr. JOHNSTON. Yes; I am advised that is the case.

Mr. LAUTENBERG. In light of this development with regard to the joint venture agreement and because of the cost associated with preparing the campus site, the Center for Molecular Medicine and Immunology has been considering alternative sites in New Jersey near the university's Newark campus for the construction of this facility. The university may attempt to locate another site on the campus as well.

In the event that the most acceptable site for the construction of this facility is determined to be off the university campus, the Department of Energy has informed me that it will not be in a position to approve the location for construction because the legislative history links construction to a site at the university. The Department of Energy has informed me that it needs a signal from Congress to enable it to approve an alternative site off of the university campus.

Is the Senator aware of this?

Mr. JOHNSTON. Yes; I understand that is their view.

Mr. LAUTENBERG. Is the Senator prepared to give the Department of Energy that signal? In the event that an appropriate site is located off the campus, would the Senator support a decision by the Department of Energy to approve an alternative site for the facility as long as it is in New Jersey and is near the Newark campus of the university?

Mr. JOHNSTON. Yes, I would. I would support a decision by the Department of Energy to approve such a site.

Mr. LAUTENBERG. Would the Senator be amenable to including conference report language that would codify this position?

Mr. JOHNSTON. Would such report language prohibit the construction of the facility on the university campus?

Mr. LAUTENBERG. No, it would not. If an appropriate site is found on the campus, it would allow construction to proceed. But it would also permit construction of the facility at an alternative site in New Jersey, near the university's Newark campus if it is more appropriate.

Mr. JOHNSTON. Does the State of New Jersey have a position on this matter?

Mr. LAUTENBERG. Yes. Governor Florio's office has informed me that the Governor is amenable to permitting construction at another site off the campus. I ask unanimous consent that a copy of a letter stating the Florio administration's position on this matter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, NJ, August 2, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR LAUTENBERG: We are writing to express our support for the language that you are proposing concerning Project numbered 87-R-130 from the Department of Energy.

This Administration is supportive of the inclusion of language which allows the Institute of Nuclear Medicine, New Jersey to proceed with construction in New Jersey at or near the Newark campus of the University of Medicine and Dentistry of New Jersey, provided that the facility will be available for cooperative research with federal laboratories such as DOE, University clinical research with federal laboratories such as DOE, University clinical and laboratory researchers, and local and community hospitals.

It is of the utmost importance to this Administration to ensure that the funding which was previously appropriated for this effort will be made available for the development of the Institute of Nuclear Medicine in New Jersey. We thank you for all of you efforts which will assist New Jersey in establishing excellence in our medical and research facilities.

Very truly yours,

BRENDA BACON,
Chief, Office of Management and Planning.

Mr. JOHNSTON. I am prepared to work with the Senators and request report language in the conference with the House if that is the wish of the Senators from New Jersey on this matter.

Mr. BRADLEY. Mr. President, I thank the Senator from Louisiana for agreeing to send a signal to the Department of Energy about permitting an alternative site for construction of the facility in New Jersey if it is necessary. I agree with my colleague from New Jersey that this issue needs to be addressed so the construction of this cancer facility, which is critically important to our State, can proceed.

Mr. LAUTENBERG. Mr. President, I also thank the Senator from Louisiana for his cooperation on this matter. The facility we are discussing holds a tremendous amount of promise and offers significant public benefit to the people of New Jersey and to the Nation.

New Jersey has an extremely high cancer rate. Yet it has no comprehensive cancer research, diagnosis, and treatment center. Moving forward with construction of the facility in New Jersey will bring great benefits in cancer diagnosis and treatment not only to my State but to citizens across the country.

CENTRAL ARIZONA PROJECT

Mr. McCAIN. I want to express my strong support for the energy and water development appropriations bill pending before the Senate. This bill contains a number of vital water development and flood control projects in my State.

I would like to express my deep appreciation to the Appropriations Committee for its outstanding work and for the support it has provided to water resource development and flood control in Arizona.

First, of course, is the central Arizona project. As you know, the central Arizona project is often referred to as the lifeblood of my State. It supplies the critical water resources Arizona needs for its agricultural, municipal, and industrial well-being. The dream of transporting water from a source of plenty to water scarce areas in central and southern Arizona will soon become a reality. The funding provided in this bill will enable us to make substantial progress toward final completion of this august and essential project.

I am especially heartened by the progress the funding will allow us to make on the final leg of the main aqueduct to the Tucson area. Southern Arizona has waited in great anticipation for the CAP waters to flow. With this funding, the water supplies necessary for the region's future will soon be secured.

Mr. President, the bill also contains crucial funding for safety of dams work, and a number of important flood control projects. I will not belabor my collagues by describing the various projects included in the legislation. I would only stress that they are each critical to protecting human life and property in Arizona.

Again, I thank the committee and I urge my colleagues to support this vital legislation.

CHILDREN'S HOSPITAL OF MICHIGAN PET-SCAN PROJECT

Mr. LEVIN. Mr. President, I would like to thank the chairman of the Subcommittee on Energy and Water Development, Senator JOHNSTON and the ranking minority leader, Senator HATFIELD for their support of the Children's Hospital of Michigan Demonstration PET-Scan project. The House has included in its report on the Energy and Water appropriations language providing for $8,000,000 for Children's Hospital of Michigan to establish the first PET-Scan machine devoted solely to the study of children's diseases. I am very pleased that the subcommittee has reported language which supports the House recommendation. The Department of Energy originally developed this imaging technology, but it has until now only transferred its benefits to adult settings.

During conference consideration of the energy and water appropriations, I urge my colleagues to support explanatory language permitting the use of funds for relocation and construction activities, which would be very beneficial in accommodating the PET-Scan machine into Children's Hospital.

Mr. SANFORD. Mr. President, I rise today in strong support of the conference report on H.R. 1465, the Oil Pollution Liability Act. This is legislation that is of critical importance to the protection of sensitive coastal areas in the United States. It is not my purpose to speak at length on this topic, but it should suffice to say that this is one of the most important pieces of environmental legislation that we have had before us in quite some time, and one of the most important environmental bills that we are likely to see again for some time.

I would simply like to state that this is a very strong bill, and that the conferees have done a superb job in treating a number of complex issues, from liability to response actions to double hulls. The conferees are to be congratulated for an excellent product in this legislation. I hope we can send this legislation to the President expeditiously so that H.R. 1465 may be signed into law.

I would like to take just a moment to address section 6003 of the conference report. This is a matter of intensive interest and concern in North Carolina. Section 6003 is based upon H.R. 3861, which was introduced in the House by Chairman Walter Jones. The section is also similar to S. 2853, which I introduced July 13.

Section 6003 is intended to provide additional scientific information on the environmental and socioeconomic impacts of allowing certain oil and gas activities off the North Carolina coast, and to prohibit such activities adjacent to our fragile Outer Banks while such information is collected. The provision also establishes an independent review panel to assess current and new information regarding the potential impacts of such oil and gas activities.

Mr. President, as I stated July 13 upon the introduction of the Outer Banks Protection Act, North Carolinians do not want to take a not in my back yard approach to this problem. I want to reiterate that I am not interested in delay for delay's sake with respect to offshore drilling, whether in North Carolina or anywhere else. But it is important to keep in mind that the pending proposal by Mobil Oil and its partners to drill offshore North Carolina is a first for our State, and that our Outer Banks are an exceptional natural resource. We need to ensure that a very high standard is met in terms of scientific information before determining whether to allow exploration activities to proceed.

I cannot say, Mr. President, that such a standard has been met at this time. It is not my purpose to criticize Mobil or the Minerals Management Service for their efforts to date. A great deal of useful information has been assembled with respect to environmental and socioeconomic impacts through the "environmental report" process established through the mutual efforts of Mobil, MMS, and the State of North Carolina. Much good work has been done during the past 2 years, and we should build on that work.

However, the public still has many questions about the adequacy of available information in several specific areas. The State of North Carolina feels very strongly that several gaps in the data need to be filled. And the scientific community in North Carolina—to whom I have listened very closely throughout this debate—have raised a number of concerns which must be better addressed. Among these concerns are the need for more detailed ocean current information and better prediction of the worst-case consequences of a spill; the need for better baseline data on biological resources at the proposed drill site; the possible designation of the "Point" area as an Area of Biological Concern under EPA regulations; and several other specific matters.

Mr. President, there is no question that the area near the proposed drilling site is one of the most biologically productive areas along the eastern coast of the United States. There is no question that the Outer Banks are a truly unique area. Both the economy and the culture of Outer Banks residents are entirely based on the well-known natural resources of these unique barrier islands. I should also point out that, while some believe that a single exploration well is very unlikely to result in adverse impacts, future wells would be virtually certain if a discovery is made. So it is in everyone's best interest to thoroughly examine potential impacts and planning options before even a single well is drilled.

Section 6003 of the Oil Pollution Liability Act would do the following:

Require that additional studies necessary to adequately characterize potential environmental and socioeconomic impacts be conducted;

Establish an independent scientific review panel to assess the adequacy of existing an new data;

Establish a certification process with respect to adequacy of information before oil and gas activities may proceed; and

Prevent the issuance of drilling permits or actual drilling at least until necessary certifications have been made, which may not occur until after October 1, 1991.

Language has been included which directs that additional data collection and review proceed expeditiously.

Mr. President, some may question any actions which have the effect of delaying exploration for new oil and gas resources. I am well aware of our current dependence on imported oil, and believe that is a crucial issue which deserves far more attention. But I do not think that a policy of attempting to reduce imports by going full speed ahead in any area, regardless of environmental questions, is either sound or acceptable to the American people. Domestic oil and gas resources are very important to any reasonable energy policy. But it is my view that we will have to make a far greater effort to improve energy efficiency and promote renewable energies as well. Strong support for energy efficiency and renewables has not been part of our energy policy, to the extent that we have had one, during the past 10 years, and that must change.

Mr. President, this conference report is extremely important to North Carolinians, as it is to the entire country. I urge my colleagues to give their strong support to this legislation.

Mr. COHEN. Mr. President, I am extremely pleased that the Senate is now considering the conference agreement on the Oil Pollution Act of 1990, H.R. 1465. It has been nearly a year since the Senate completed action on its version of this bill, and during that time a number of oilspills have graphically demonstrated the crucial need for this legislation.

As a cosponsor of the Senate bill, S. 686, and as a Senator from Maine, I am particularly pleased that the conference report adheres to the Senate position that State oilspill liability and cleanup laws should remain in place. Maine has had such a system in place for many years, and it has enabled the State to respond quickly to minor and major spills and to assess liability for the damages incurred. The *Exxon Valdez* spill in March 1989, underscored the importance of allowing State funds, such as Maine's and Alaska's to remain in place. Had Alaska not had such a fund and been able to respond quickly to the *Valdez* spill, environmental damages would have been much worse. This is a good bill for my State of Maine and for any State that has its own oilspill cleanup fund and liability laws.

The conference report is also significant in that it mandates the construction of double hulls on new and existing tankers, beginning in 1995. By requiring retrofits earlier on the heavier and older vessels, the agreement adopts a sensible approach that will ensure that those vessels most suceptible to damage will be fitted with double hulls first.

I believe the agreement also imposes very strict liability limits on tanker owners when spills occur. Liability would be unlimited in a case where gross negligence or willful misconduct exists, or if a violation of Federal safety, construction or operation regulations occurs. In other cases, liability is limited to $1,200 per vessel ton, with certain minimum levels set for vessels of certain sizes. Though I voted for unlimited liability for environmental damages when the Senate bill was under consideration, I understand the constraints under which conference members were operating and the need to obtain a bill that establishes, at long last, that liability will be assessed. The $1,200 per vessel ton limit is a vast improvement over the current level of $150 per ton, and should ensure that the cost of damages will be covered by those responsible.

While the *Exxon Valdez* and other spills were very unfortunate and caused significant environmental damage, they served a purpose in drawing our attention to the need for improved oilspill response and prevention efforts. Many Senators, including my colleague from Maine, Senator MITCHELL, had worked on this issue for years without success. The environmental damage that occurred as a result of the many spills of 1989 and 1990 was exactly what was to be avoided by passage of a comprehensive oil spill liability bill, and they underscored the fact that we should have accomplished this earlier.

I want to commend those who have worked long and hard to see that this legislation was enacted. I hope it will result in fewer spills occurring as well as greater speed in cleaning up those that do happen. The protection of our valuable marine resources and coastal regions is extremely important, and the passage of this legislation represents a great improvement over existing law. I am pleased to be supporting it.

ST. GEORGES BRIDGE

Mr. BIDEN. Mr. President, the energy and water bill for the 1991 fiscal year contains a provision that is of great interest to the State of Delaware. I refer to the provision that provides $7 million to start construction of a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, DE. I greatly appreciate the assistance the chairman and the ranking member of the Energy and Water Subcommittee have provided in making the funding available.

The St. Georges Bridge has a unique and unusual history. That history has been thoroughly and extensively reviewed by a number of Senate committees.

The Senate Environment and Public Works Committee studied the legislative history of the canal and reaffirmed that the Army Corps of Engineers, the Federal agency that operates the C&D Canal, has existing authority to construct a replacement bridge at St. Georges.

I ask unanimous consent that a copy of the letter sent by the chairman and ranking member of the authorizing committee be printed in the RECORD. I also ask that a copy of the section of the committee report on the St. Georges Bridge from the Water Resources Development Act of 1990 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ST. GEORGES BRIDGE, DELAWARE

The Committee would like to make note of the situation surrounding the St. Georges Bridge in Delaware. The existing bridge provides an important crossing for the federally-owned Chesapeake and Delaware Canal. The issue has been raised as to whether the Corps of Engineers has the authority to replace the existing bridge with a wider crossing to accommodate projected traffic loads along Route 13. After extensive review of the history of the canal and its crossings, the Committee believes that the Corps possesses authority to construct a new bridge at St. Georges.

The Committee has found that the history of the crossings for the Chesapeake and Delaware Canal presents a unique situation. The original charter for the canal, dating from 1801, allowed a company to construct a canal from the Delaware Bay to the Chesapeake Bay. However, because the canal severed the State of Delaware in two, the State required the canal operator to provide and maintain "good and sufficient" crossing over the canal at the operator's expense. The crossing requirement ensured that the State's economy, particularly that of southern Delaware and the Delmarva peninsula, would not be impeded by the canal and that Delaware citizens would not incur inequitable costs associated with the canal.

In 1919, the Federal Government took full ownership and operation of the canal through condemnation proceedings. The record of Congressional action leading to that condemnation, and the subsequent legislation, make clear that the United States recognized that it was not only taking over the physical property of the canal, but also the contractual obligations governing it.

The fact that the Federal Government has fully funded the replacement of this bridge in the past from the operation and maintenance account of the Corps of Engineers civil work program substantiates this fact.

Questions about the bridge that this Committee reviewed revolved around the authority of the Corps of Engineers to construct a new bridge. The Committee believes that the terms of the 1801 charter, as assumed by the Federal Government in 1919, provide the necessary authority.

The Federal Government has upheld its responsibility according to the terms of the original charter during the seventy-one years it has owned the canal. The Committee believes the Federal Government should continue to do so, and reaffirms the authority of the United States, through the Army Corps of Engineers, to build a replacement bridge at St. Georges.

U.S. SENATE,
Washington, DC, May 25, 1990.

Hon. J. BENNETT JOHNSTON,
Committee on Appropriations,
Washington, DC.

DEAR BENNETT: As you know, Senator Biden and Senator Roth have been working with the U.S. Army Corps of Engineers for more than a year to secure a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, Delaware. The issue is unique because of the manner in which the Federal Government obtained ownership of the Canal in 1919.

It is our understanding that, Senator Biden and Senator Roth will seek appropriations for a replacement structure. We have studied the detailed history and documentation of this project, including the original charter of the Chesapeake and Delaware Canal Company. Upon review, we have concluded that the U.S. Army Corps of Engineers currently possesses the legal authority to construct and fund a replacement crossing for the existing St. Georges Bridge.

We therefore ask that you give every consideration to a request for appropriations to fund the needed replacement bridge.

Sincerely,

JOHN H. CHAFEE,
Ranking Minority Member.
QUENTIN BURDICK,
Chairman.

Mr. BIDEN. In addition, the Senate Judiciary Committee reviewed extensively the legal obligation of the Federal Government to provide "good and sufficient crossings" over the canal. Legal memorandums on this issue have been prepared by the committee staff and are part of the hearing record for this bill.

I ask unanimous consent that a letter from myself and Senator THURMOND, ranking member of the Judiciary Committee, concluding that the United States is contractually obligated to construct and fund a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, DE, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 21, 1990.

Hon. J. BENNETT JOHNSTON,
Committee on Appropriations,
Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR HATFIELD: We are writing to you concerning the United States' contractual obligation to construct and fund a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, Delaware. The staff of the Judiciary Committee has studied this matter in accordance with the committee's authority to examine claims against the United States.

The United States legal obligation with regard to canal crossings originated in an 1801 charter granted by Delaware to the Chesapeake and Delaware Canal Company. In 1919, the United States acquired the canal company. Along with the company's assets—land and property rights—the United States also acquired the company's contractual obligation to build and maintain

"good and sufficient" crossings over the canal.

Congress, the federal courts, and the executive branch all have recognized the United States obligation since the time the canal was acquired. On repeated occasions during the past 70 years, the United States' legal obligation to build bridges has been reviewed. In each instance, the obligation was reaffirmed. In 1939, and again in 1954, the United States fully funded bridge projects as a result of its contractual obligation. We believe that the federal government continues to be bound by this precedent.

We hope that the study by Judiciary Committee staff and the information provided above prove helpful in your consideration of funding for the St. Georges Bridge.

Sincerely,

STROM THURMOND,
Ranking Member.
JOSEPH R. BIDEN, Jr.,
Chairman.

Mr. BIDEN. Finally, the Senate Appropriations Committee has approved and recommended an appropriation of $7 million to begin replacement of the St. Georges Bridge. The committee has also included language in the bill to start construction. The committee report describes the reasons for its actions on the St. Georges Bridge and provides further direction to the corps of this matter.

The St. Georges Bridge has to be the most extensively reviewed bridge to come before this Congress. The authorizing committee concluded that the corps already has the authority to provide a replacement bridge over the canal. The Judiciary Committee concluded that the Federal Government is contractually obligated to build and fund the bridge. The Appropriations Committee has provided $7 million in funding to start construction of the bridge.

It should also be noted that funding provided in this bill for the replacement bridge comes out of the operation and maintenance account of the corps. This reflects the fact that providing good and sufficient crossings continues to be an integral part of the operation of the canal as described in the canal's charter.

I would like to make clear that there is no question at either the State or the Federal level that a replacement bridge is needed at St. Georges. The existing bridge will not be able to meet the charter's standard of good and sufficient crossings. Traffic increases are overloading the existing bridge, which cannot be expanded to accommodate these demands because of design limitations.

Mr. President, I have described the details of the bridge's funding because its circumstances are unusual and I believe it is important to fully explain how those provisions were developed, and to make clear that they were developed through a detailed, exhaustive review of the facts and legislative history relating to the bridge, the charter for the Chesapeake and Delaware Canal and the Federal Government's role as owner and operator of the canal.

I would ask the chairman of the Energy and Water Subcommittee if he concurs with the background of the funding as I have described it.

Mr. JOHNSTON. I have listened with great interest to the Senator from Delaware's description of the funding provision we have included in the bill for the St. Georges Bridge. It is indeed an unusual situation, but the Senators from Delaware have made a strong case for the bridge, answering our questions and persistently pressing the case. The Senator has accurately described the background and the action regarding the St. Georges funding provision in the bill, which reads as follows:

Provided further, That of the funds appropriated herein, $7,000,000 is for a new bridge over the Chesapeake and Delaware Canal at Saint Georges, Delaware, as proposed by the State of Delaware, and as authorized by laws.

Mr. BIDEN. I thank the chairman and would again like to express my appreciation for his efforts in support of the bridge.

Mr. JOHNSTON. Mr. President, that concludes all of the business so far as I know save an amendment by Senator STEVENS, which I have just been handed, which I have not had time to look at. So I suggest the absence of a quorum.

The PRESIDENT pro tempore. The time remaining will not allow for a quorum.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we be allowed to have a quorum call and that it not be charged.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2492

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows;

The Senator from Alaska [Mr. STEVENS], for himself and Mr. WIRTH, proposes an amendment numbered 2492.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill: "The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991.".

The PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me notify the Chair that this amounts to a consolidation of the amendment of the distinguished Senator from Colorado [Mr. WIRTH] and the one that I had proposed. Senator Wirth will speak to his amendment.

The PRESIDENT pro tempore. Will the Senator suspend. The Chair asks whether or not the Senators then wish to consolidate their times.

Mr. WIRTH. Mr. President, I ask unanimous consent that the time of the Senator from Alaska and the Senator from Colorado be consolidated.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am grateful to the Chair and the Senator from Colorado.

We have in Alaska what I consider to be one of the most exciting research projects that I have ever encountered, and I do not use that word very often, as the Senate knows. It is the experiments that are going on trying to determine if it is possible to harness the energy of the electrojet for the use of mankind. The electrojet is a band of energy that we understand now to be caused by solar winds that is almost inexhaustible. I was told in one briefing that the amount of energy over our State at any one time in that electrojet is equal to the total man-made generation of electricity in the United States on that day. It is a fabulous project. It has the potential of using a laser beam to be a conductor of this energy back to Earth and to use it, as I indicated, for the total benefit of mankind. The center that is doing this is also involved in the impact of the Arctic on global change.

The Senator from Colorado will deal with this National Center of Atmospheric Research, which is the center, I think, the National Center of Global Change.

The two centers have run into an absolute impasse, that is, the computer capability is not sufficient to continue these experiments. We know now that that bill is shut out as far as budget capability this year. I believe that there is an overwhelming defense in-

terest in both of these activities, and we will have to explore later whether the Defense Department ought not to cooperate with the Department of Energy to see to it that they are ongoing and completed as soon as possible.

But I say this to my good friends in the Chamber. If within our lifetime we could harness the electrojet, an inexhaustible supply of energy that is in space, and bring it to Earth, we would have a different society, not only here but in the world. There are not many places in the United States, I am informed, just one really, that get this volume of energy, but there are other places where some of the energy might be tapped.

It is an experiment that, when I first heard about it, I thought someone had rewritten a new chapter of Jules Verne.

I am grateful to the two managers of the bill for accepting this amendment. This Senator hopes to be back on the floor often to discuss this project and make sure it proceeds as rapidly as possible.

I thank the Chair.

Mr. WIRTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH] is recognized for how much time?

Mr. WIRTH. I thank the Chair. I will not take more than 3 minutes.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. WIRTH. Mr. President, the National Center for Atmospheric Research, a university consortium, is one of four major global climate modeling centers in the country. The others are Oregon State; Princeton, which is a NOAA center; and Goddard Space Flight Center, where Dr. Hansen is.

This center is doing precisely the kinds of research that the administration is arguing must be done in the area of global climate change. There are many at the University of East Anglia, in the Soviet Union, and elsewhere who believe the evidence is overwhelming that we are now in fact in a global warming change, a global warming phenomenon.

The current administration has argued, I think justifiably, that we do, in fact, need more research. This is enormously complicated and difficult research to undertake and demands the use of super computation to look at all of the variables. We have some broad sense of climate change patterns, but we cannot come close to regionalizing it even to continents, much less to areas within continents, and what the specifications are going to be. This demands a great deal of super computation work. Similar to the program suggested by the distinguished Senator from Alaska, this is a breakthrough set of opportunities that we have in better understanding natural forces in the globe.

At a time when our global security is clearly away from threats from the Soviet Union toward threats from energy, as outlined by the distinguished Senator from Alaska, threats from the environmental challenges, we have to think differently and reorganize our institutions to approach this new set of problems.

I greatly appreciate the help and assistance of the Senator from Alaska in working out this amendment, and the help from our distinguished committee chairman, Senator JOHNSTON. This is a very important for the future of our overall research establishment and the future of our initiatives in the United States to continue our leadership on global climate change.

So I hope that our colleagues will accept this amendment and we can get on with a better understanding from the Secretary of Energy of his perception of the sets of problems that have been so well described by the Senator from Alaska and I hope by myself.

Mr. President, I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise in support of my colleague from Alaska's effort to encourage the development a supercomputer facility at the University of Alaska Fairbanks. The supercomputer will be a dedicated technological resource for the study of global change that will serve researchers in Alaska, the lower 48, and foreign scientists. The University of Alaska is the best site for this facility because of the importance of Arctic studies to the factors and indicators of global change and because of the substantial scientific and human resources already established through the University's research institutes.

As I understand it, the amendment offered by my colleague will direct a study of the need for the supercomputing technology in the Arctic. Mr. President, the Arctic is a key area in which to study physical, biological and social processes and interactions associated with global change. Such studies may well provide the first clues and indications of the climate change we can expect, and may prove essential to understanding how the entire complex earth system functions.

The Arctic, taken to include much of Alaska, the Yukon, and Northwest Territories, Greenland, northern Scandinavia, Siberia, and the Arctic Ocean, is a region characterized by one of the most extreme environments of the planet where limited sunlight, extreme temperature excursions, and a short growing season impose harsh constraints on terrestrial and marine ecosystems. Sea ice, snow cover, glaciers, tundra, permafrost, boreal forests, and peatlands are each sensitive indicators of global change, susceptible to subtle variations in sunlight, surface temperature, ocean heat transport, air and ocean chemistry, and pollution of the atmosphere.

Polar lands and oceans are more than passive indicators of change in the coupled earth system. The basic circulation patterns of the global atmosphere are fixed by arctic and antarctic boundary conditions through pole-equator temperature differences; high latitude air/ice/ocean interactions play an important role in determining regional and global climate and ocean circulation patterns; and arctic air/land interactions—particularly those involving peatlands and permafrost—involve potentially important sources and sinks of trace gases. Global warming trends, whether of natural or anthropogenic origin, will be particularly felt in polar regions, most likely resulting in changes in extent of sea ice, increased thawing of permafrost, and melting of polar ice masses, which could have profound societal impacts around the globe.

The importance of the Arctic in global change studies has been pointed out in several national and international planning documents. In "Arctic Interactions: Recommendations for an Arctic Component in the International Geosphere-Biosphere Programme," written by scientists called together by the Office of Interdisciplinary Earth Studies of UCAR, the University Corporation for Atmosphere Research, the Arctic is described as a "hellwether of global change and a zone of early warning." (Arctic Interactions: Recommendations for an Arctic Component of the International Geosphere-Biosphere Programme, University Corporation for Atmospheric Research, Office of Interdisciplinary Earth Studies Report OIES—4, September 1988, page i.)

The National Science Foundation's multimillion dollar Arctic System Sciences [ARCSS] Program aims "to understand the physical, chemical, biological, and social processes of the arctic system that interact with the total Earth system and thus contribute to or are influenced by global change." In meetings to plan the implementation of this program, the arctic region was described to be of special interest because it is "an environmentally sensitive system that may respond more readily than other regions to global changes," and "processes that occur mainly in the Arctic can, in turn, induce significant effects over the entire globe."

Other documents address the important role that the polar regions plan in global change; they include national Academy of Sciences' and U.S. Committee on Earth Sciences' reports. A special report by the Interagency Arctic Research Policy Committee which outlines a fiscal year 1991 common strategy for U.S. agencies involved in Arctic Ocean research states that "the Arctic and its oceans, ice cover, and resources influence the cli-

mate and economics of the populated lower latitudes of the globe" and stresses that "understanding of the unique region of the planet * * * is essential for providing our Nation with a sound basis for developing policies and response strategies."

These are just a few of the reasons why the Arctic is a particularly apt region for scientific emphasis in the study of global change. U.S. and Canadian scientists have recommended a set of high-priority elements for an arctic component of the proposed global change studies. The human resources to conduct such studies are available. Several U.S. and Canadian universities actively conduct global change related research in the Arctic. In the United States, ARCUS, the Arctic Research Consortium of the United States, brings academic expertise together. Among those universities, the University of Alaska is one of the key institutions involved in arctic studies. Funding of arctic research is through a dozen Federal agencies with an annual budget of between $80-100M. Arctic reserach is coordinated through the U.S. Arctic Research Commission and the Interagency Arctic Research Policy Committee.

The University of Alaska held an international conference on the role of the polar regions in global change in June 1990 to summarize what we know about the Arctic as part of the global system. The wide support for this conference, including cosponsorship by 11 national and international scientific bodies, financial support by a dozen government and private sponsors, and attendance by scientists from 14 different countries, including the Soviet Union, Canada, and other Arctic nations, testifies to the importance that scientists, government planners, and private industries place on the Arctic.

Mr. JOHNSTON. Mr. President, I very much appreciate the cooperation and the good work of the Senators from Alaska and Colorado in working this out.

I think we very much need the study which this calls for. The super computing capacity with respect to global climate change and with respect to the aurora borealis energy source in Alaska are very important areas to be studied. It is important that the Department of Energy makes these studies, and give us the advice on how to proceed from a legislative standpoint for next year.

I commend them for their good work. I hope these studies will give us a positive path to follow in the legislative matter. I thank them for it. And for the majority, we accept the amendment.

Mr. HATFIELD. It is acceptable on this side of the aisle as well.

The PRESIDENT pro tempore. Is all time yielded back on the amendment?

Mr. JOHNSTON. Yes. All time is yielded back.

The PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2492) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

SNAKE RIVER LEVEES

Mr. WALLOP. Mr. President, in comparison to other moneys that flow out for Corps of Engineers projects, the request Senator SIMPSON and I are here to make seems minuscule. However, it is important to tie up an issue which we have been working on almost for 5 years, now. We are asking that $450,000 be included in the budget for the Army Corps of Engineers in order that they can determine what mitigation is necessary as a result of their maintenance activities on the Jackson Hole Snake River Levee System.

The Snake is most unique. The river's braiding tends to create side channels and shifts in the main channel making it unusually prone to wandering and usually expensive to maintain. Up till now the Corps would only come in during emergency flood fight conditions—a very inefficient way to spend Federal dollars.

After years of discussions we finally persuaded the Corps of Engineers to assume responsibility for operations and maintenance of the Snake River Levee System as directed by the 1986 Water Resources Development Act in a cost-share partnership which limited non-Federal funding to $35,000. However, the corps and the Fish and Wildlife Service are concerned about ongoing impacts the maintenance activities will have on the river. Wetlands and riparian habitat are of concern as is the in-channel habitat for cutthroat trout. They must keep their eye on the bald eagles which nest in the area, in addition to other birds such as the great blue heron.

This money will ensure that the levees contain the flood flows in an environmentally responsible manner. Located just beneath Grand Teton and Yellowstone National Parks, the beauty and ecological significance of this area is world renown and as we protect the valuable landholdings and homes of Jackson Hole we will work to conserve its natural treasures, as well.

I thank the managers of this bill for their assistance in this most important matter.

Mr. JOHNSTON. Mr. President, that is all the amendments, colloquys and other business that I have been informed of. So, from the standpoint of the majority I think we are ready to proceed to third reading.

I ask my distinguished colleague from Oregon if he concurs with that?

Mr. HATFIELD. Mr. President, in response to the chairman of the committee, it is. We have concluded all of the amendments of which I am aware, and colloquys, and statements. We are ready. I have had no request for a rollcall on final passage.

The PRESIDENT pro tempore. Is all time yielded back?

Mr. HATFIELD. Yes.

Mr. JOHNSTON. Yes.

Mr. President, we have no request for a rollcall vote. So therefore, I believe we can proceed with a voice vote.

The PRESIDENT pro tempore. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5019), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon; and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, and Mr. SPECTER conferees on the part of the Senate.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

COMMENDATION OF SENATORS AND STAFF

Mr. JOHNSTON. With the voice vote we have now passed the first of 13 appropriations bills which, while it is not rancorous here on the floor, was a major accomplishment, I believe, nonetheless, the credit for which goes first to the staff; to David Gwaltney,

who is our real workhorse on this committee; Proctor Jones is sort of the senior staff member, but he is senior enough to let David Gwaltney do most of the work. And the two of them together, on the majority side, along with Gloria Butland, also on the majority side, they are real experts and they all do marvelous work. Gary Barbour, and Dorothy Pastis, on the minority side, are real experts too. They deserve tremendous credit for the passage of this bill.

I must, of course, reiterate what I said to begin with; that the distinguished chairman of the full committee has been the real stalwart in this whole process. The Senate is very, very well served to have the distinguished Senator from West Virginia as the chairman of the Appropriations Committee. It has made possible the good work on this.

I reiterate, of course, my tremendous respect as well as affection for the distinguished Senator from Oregon, who has been chairman, ranking minority member, and we have traded off those positions with such harmony and such success over the years. I look forward to many, many years working with him in these positions.

Mr. President, I very much thank the distinguished Presiding Officer, the Senator from Oregon, the staff, and all who have made this great victory possible.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I am grateful for the remarks of the chairman of our committee, Senator JOHNSTON. I would like to observe that it is not by chance that this is the first appropriations bill that has been considered by the full Senate, and acted upon and approved by the full Senate.

I think it reflects not only on the individual leadership of our committee, Senator JOHNSTON, and the members of our subcommittee, who have cooperated under his fine leadership, but I also want to observe that the Appropriations Committee had been delayed in its entire process by the lack of the guidelines from a budget resolution. And the chairman of the full subcommittee, Senator BYRD of West Virginia, had to help to spring that situation loose to make clear the roadway ahead by getting a unique budget resolution in place so that the appropriations committee could proceed.

But, again, I take pride in being associated with the subcommittee in making its first report, a very complex bill. A lot of people do not realize that the whole nuclear weapon program of this country is in this bill, not the Defense Department bill. That goes back to the day when it was determined that atomic energy would be governed by civilian, not by military authority. So that was reflected by placing the nuclear program in the energy-water bill.

In spite of the complexities of that component of the bill and all of the controversy surrounding the projects, the Corps of Engineers, the Bureau of Reclamation, the other parts of this bill, I want to say again, congratulations Senator JOHNSTON. It is a great achievement, and he deserves the credit for it.

Mr. JOHNSTON. I thank the distinguished Senator.

ENERGY POLICY AND CONSERVATION ACT

Mr. JOHNSTON. Mr. President, I send a bill to the desk and ask for its immediate consideration. This bill has been cleared on both sides.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2952) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSTON. Mr. President, this bill has been cleared on both sides. It simply extends the authority for a strategic petroleum reserve drawdown from August 15 to September 15. That authority expires on August 15.

We are presently in conference with the House on an overall revamping of the strategic petroleum reserve program which would extend that program to 1 billion barrels, provide for emergency product reserves in the House version of the bill, and provide for the ability to lease reserves from owners other than the Federal Government.

In view of the Iraqi invasion of Kuwait, that conference committee bill is particularly important and particularly vital to the country. We expect a successful resolution of that in the conference.

However, for the time being, we need to extend this authority for 30 days on an emergency basis while we complete the work in the conference.

Mr. McCLURE. Mr. President, I strongly support the action being taken with respect to the emergency extension of the authority that is absolutely necessary. I toyed with the idea of coming to the floor this morning and saying "I told you so" to the world with respect to what is happening in the Middle East today and the potential impact that it has on the economy of the Western industrialized world. Unfortunately, we have not done enough, in my opinion, with respect to energy policy and responses, in situations like that occurring in the Middle East today.

But the least we can do is to preserve the most important tool that we have constructed so far in the strategic petroleum reserve. I think it is important, as the Senator from Louisiana has said, to take this emergency action on a temporary extension of what we tried to resolve, larger policy questions within the context of that enactment. The events in the Middle East today underscore the fragility of the economies of the Western World and the marginal supply of energy that fuels the Western industrial world.

The United States might decry the occupation of a small country by a more powerful nation next door. We would do so, I am certain.

We would not do it with the same sense of urgency and real concern about our own interests, if it were not for the energy that is involved. I think this is necessary action. It is very timely action, and it reminds us once again that we ought to do something more than we have done with respect to energy policy and getting our energy House in order in this country.

I thank the Senator for bringing the bill to the floor today.

Mr. JOHNSTON. Mr. President, the Senator from Idaho has been a voice in the wilderness for a long time on the question of energy policy. I have joined him in that respect.

Mr. President, we are importing 50 percent of our crude oil today in the United States—more so than we were in the crisis of 1973, more oil than we were importing in the crisis of 1979, and there is no end in sight.

The distinguished former Secretary of Energy, Jim Schlesinger, testified before our committee recently that today's 50 percent imports will grow by 1995 to two-thirds of the energy of the crude oil used in this country. "At that time," says Secretary Schlesinger, "the trade deficit caused by oil imports will be bigger than all the rest of the commercial trade deficit put together."

Mr. President, when you combine those warning facts with what has happened in the invasion of Kuwait, the implications for this country are truly staggering. What this invasion means, in addition to being a barehanded act of aggression, in addition to being destabilizing in the Middle East, in addition to being all of those things which have been said here on the floor about Saddam Hussein and his ruthless rule, what it means is that, in practical economic terms for this country, OPEC discipline now has been ensured by the point of a gun, because the Arab Emirates and Kuwait were the two countries who were the most usual and frequent violators of the OPEC quotas.

Now that those violations are no longer going to exist in Kuwait, because they will be controlled by their new conquering power, unless something is done to take them out, and I do not know whether anything is possible or contemplated, or even within the realm of practicality.

But we can be sure that we will now have OPEC discipline. What that means is that Iraq will be able to set such price for OPEC oil as they wish to set. Recently, they came up with a compromise figure of $21 a barrel. Iraq has asked for $25 a barrel. Whether this means that there will be a new meeting of OPEC and that Iraq will be able to dictate its price, we do not know. I suspect that is precisely what will happen.

I think all of the OPEC countries, at least all of those in the Middle East, will be intimidated by Iraq, that Iraq will be able to set such prices it wants, that with its war-ravaged economy needing dollars as bad as it needs foreign exchange, I suspect that that price will go up.

So, Mr. President, the implications for this country are stark. The only thing we have done that I know anything about—and I am the chairman of the Energy Committee—in terms of energy policy to help this country is the strategic petroleum reserve. Everything else we have done goes in the opposite direction.

The Clean Air Act, as much as I like it, makes it more difficult to produce energy. The failure to drill off of our coasts makes it more difficult to produce energy. The failure to act on the Arctic National Wildlife Refuge makes it more difficult to produce energy. The clampdown on nuclear power from a thousand different cuts makes it more difficult. We may, as a country, have various degrees of enthusiasm to do all of those things, Mr. President, but the fact of the matter is, they make it very, very difficult to produce domestic energy.

So what this invasion today signifies, Mr. President, is that prices are going up. It is going to affect the economy of the United States in a very difficult way. And we better get our act together on energy policy, which can be summarized in one word, "import," which is no longer acceptable for this country. It is time we got our act together and change that energy policy, change it from the one word, "import," to three words, if we are going to put all of our policy on bumper stickers, and that policy ought to be, "made in America."

I ask that this bill pass as a modest step in that direction.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. Senator HATFIELD is recognized.

Mr. HATFIELD. Mr. President, I commend my colleagues from Idaho and Louisiana on raising these very important points that they make this morning. I will just make a couple of observation, as well.

We have to look beyond the economics of this problem, because there are so many implications involved. We can look at the fact that Mr. Nixon, as President of the United States, put the world on a nuclear alert because of a crisis in the Middle East and the threat to "our oil supply." And you recall that the Secretary of Defense, Mr. Brown, under a Democrat President, Mr. Carter; and a Secretary of State Mr. Kissinger, under a Republican President, Mr. Ford, both had indicated at another time in history that the administrations would consider the use of tactical nuclear weapons in the Middle East to protect "our oil supply." And at the height of the Arab boycott, let us recall that we were only importing about 30 percent of our oil supply or consumption. Also, the Senator indicated we are up now to 50 percent of that supply.

What I am saying, in effect, is that there is a peace and war dimension to this whole energy issue that we had better face up to. Everybody likes to call themselves an environmentalist. Well, let me say that I prefer the word conservationist, because conservationist, in the Gifford Pinchot definition, is "wise utilization." Increasingly, the environmental nomenclature of today is lockup, preservation, not wise utilization.

It is awfully easy for me to vote on the wildlife refuge in the northern part of our hemisphere. But let me tell you I could change that vote very quickly if the option was sending American soldiers and sailors into the Middle East to fight a war to protect our oil supply—and there have been enough wars in this world fought for the commercial and the economic interest.

Let us remind ourselves of the imperial military Government of Japan in 1941. Why did they bomb Pearl Harbor? In part, because their strategy was to get to Indonesian oil fields, and the Philippines and Pearl Harbor were the only blockades for the imperial military Government of Japan getting to an oil supply.

You can say that, in part, it was driven by the need of oil. So we have proven the case that nations are willing to go to war to sustain their oil needs and dependencies.

Hitler's whole eastern movements could be tracked in part to his quest for oil in World War II on the continent of Europe and North Africa.

All I am saying is that we better get a comprehensive energy policy in this country that weights the options and the components, the needs of consumption, how do we deal with those. We should deal with it from conservation, alternative supply, alternative fuels, and we have dropped our great drive to get these alternative energy supplies that we need through development, research, and we also have to understand the global politics of this resource and our growing dependency upon the Middle East and the imported oil and the relationship of that to geopolitics, which includes the elements of peace and war.

I think also we must recognize that it is not just in oil, we are projecting electrical energy shortages in the near future. We see that in the Northeast. We see that in the Northwest. So it is a total picture of energy.

We are looking at it the possibilities of some endangered species on the Colorado River that involves a water project. We are seeing the possibilities of endangered salmon species on the Columbia River that could cause a racheting down of electrical production in the Bonneville system. So we have to measure these needs, these values.

I am not one that says that you have to destroy the environment in order to supply your economic need. But when we polarize these issues to where if you raise the economic dimension, you are dubbed an environmentalist. We have gotten this polarized—whether spotted owl or endangered species in the Colorado River—to the point there are two warring camps.

Let me say that the pluralism of this Nation is really being challenged. We are being torn apart by the single dimension, natural approach to these complex issues. Some call it single issue groups. But we have to look at the environmental impact, we have to look at the environmental values we have to lock up, we have to preserve, we have to do many things on the environmental front making for the sins of the fathers, in some cases. But, on the other hand, let us weigh those other impacts and those other implications in relation to the economics.

I find that it is awfully interesting that some of the polls of my State indicate that as of a year ago everybody would join in and say, "Well, maybe we should lock up vast tracts of land to protect the spotted owl." As it got closer to the point and implications of economic costs, that poll had shifted considerably, and that shows again that the average citizen out there expects these forces to be melded, these competing values to be melded, rather than further politicized and polarized.

I think the invasion of Kuwait today by Iraq and the impact that has been indicated probably on our oil supplies and our oil imports might change a little bit of the economics here at home to consider some of these other possible alternatives we have in increasing energy conservation and perhaps of doing a little more inventorying to, at least, know where we have energy reserves that we even refuse to

do today in some instance to even inventory our research potential.

Let me tell you when the day comes—and God forbid it does—that we have to make that choice as against sending military expeditions into the Middle East, just see how fast the environmental crowds around this Congress will disappear. I feel their lack of aggressive approach forces that possibility under those given circumstances that I pray never happen to where people will say, well, how did that happen? Like the S&L debacle, how did that ever happen?

Let us put everybody on due notice today as it has been said by the pioneers in this field, Senator MCCLURE and Senator JOHNSTON and others on the Energy Committee, that we have raised a voice, and if you cannot remember it from the past, remember it as of today that this is very definitely a complex international issue of geopolitics—peace and war, and local domestic implication, trade imbalances, and all the other economic aspects to it, and it also is not just in the field of oil. We better address this energy problem.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I join my colleagues in expressing concern about America's dependence on imported oil. I would call to their attention the reality that today the United States is Iraq's largest customer, importing 600,000 barrels per day. This was expected to increase to 1 million barrels per day by the end of August.

On the other hand, Mr. President, I am reading from a press release where our President today said his Executive order was designed to freeze Iraqi assets and prohibit transactions with Iraq.

The question I have, Mr. President, is where do we get that 600,000 barrels of oil that we were getting from Iraq?

Mr. MCCLURE. We are not going to get it from Kuwait.

Mr. MURKOWSKI. We are not going to get it from Kuwait. Wherever we get it, the price is going to increase. We have already seen a price increase of some $3.

I would like to call to the attention of my colleagues another item of concern created by the invasion of Kuwait by Iraq. This is an important issue concerning the five Kuwaiti tankers that are manned by United States crews and United States captains. These United States crews are sailing vessels carrying Kuwaiti oil to various points around the world. Where does the Iraq invasion of Kuwait put the United States relative to the protection of our crews and these American-flag vessels? Are we now in a quasi-state of war with Iraq?

The tankers carry the United States-flag but are Kuwaiti tankers, a very curious set of circumstances, and I think one that requires an explanation. Perhaps this has been overlooked by those down at the White House. It is nevertheless serious concern.

Another concern is that the 7th Fleet has been over in the Mideast and the Persian Gulf for an extended period of time. The fleet is currently in the Indian Ocean. The reality of just whose oil the fleet is protecting deserves examination.

Roughly 99 percent of Japan's oil is imported. In excess of 60 percent come from the Mideast. The United States presence has insured the continued ability of Mideast oil supply to our friends in Japan. But what has Japan itself done to participate in that protection? I think it is fair to say that it is hard to find anything truly significant, that the Japanese have contributed to assure the continued supply of their needed oil. Let us make no mistake about it, Mr. President.

On another matter, what do increased oil prices mean? One can look back and see that each time the United States has had an oil shock, we have experienced corresponding increases in inflation, in unemployment, and in interest rates.

My colleagues from Louisiana, Oregon, and Idaho are very learned regarding the energy needs of our Nation. They have identified an important goal to achieve a greater degree of energy independence. What have we actually accomplished in this country to achieve that goal? We have eliminated, for all practical purposes, drilling in the Outer Continental Shelf off the west and east coasts of Florida. The environmental community has claimed this as a victory and has moved on to the few remaining Outer Continental Shelf off my State of Alaska which have tremendous potential for oil and gas recovery. Some Outer Continental Shelf areas, like Bristol Bay have already been withdrawn from oil exploration until studies on the impacts of oil exploration and development on fisheries can be completed. This is appropriate. However, there are other Outer Continental Shelf areas, like the Chuckchi Sea that are conservatively estimated to contain 3.5 billion barrels of oil. These promising areas should remain open to oil exploration and development.

The question before this body and the Nation as a whole is simply stated. Are we going to wake up to reality and recognize that this Nation must achieve a greater degree of energy independence? Energy independence is in the national security interest of our Nation. It must happen today—tomorrow is too late.

My colleagues have mentioned the Arctic National Widlife Preserve. We do not know if there is oil there. A policy that precludes the determination of whether or not oil reserves are present absolutely makes no sense at all. Our Nation deserves to know. We need to be able to make an informed, well reasoned decision. The only way we can know is to allow exploratory drilling. Then we can make development decisions based on facts and our Nation's need for oil.

There are a few additional points I would like to make.

Mr. President, the State of Alaska currently is supplying the Nation with nearly one-fourth the total crude oil produced in this country. I know the President pro tempore was here during those early debates when the Senate authorized construction of the trans-Alaska pipeline system. The vote was so close that the Vice President Spiro Agnew came to the Senate to break the tie. We were that close to not having the pipeline. We were that close to having no viable way to deliver 25 percent of our Nation's oil production. Mr. President where would we be today without that oil?

The Prudhoe Bay oil field production is in decline, Mr. President. The decline is very significant. Prudhoe Bay production dropped 10 percent last year. The trans-Alaska pipeline system is currently flowing at roughly 1.7 million barrels a day. Due to economics of operation and maintenance the TAPS cannot be operated at less than 300,000 to 400,000 barrels per day. Alaska has other area of high oil potential that must be developed to keep the TAPS open and providing oil for our Nation.

Mr. President, we are developing new technology with definite environmental benefits. When we brought the Alaska Endicott oil field on line in 1987 it was the 10th largest producing oil field in the United States. Today as other fields decline, it has risen to the 6th largest producing oil field.

Mr. President, Endicott uses only 55 surface acres. A surface area the size of a typical family farm is producing 100,000 barrels of oil per day.

Mr. President, ANWR is 19 million acres, the size of South Carolina. Due to advances in directional drilling and drilling fluid technololgy, if we were to authorize the opening of ANWR and every lease were drilled, we would utilize an area no bigger than the international airport complex at Dulles.

I could talk at great length.

The time for action is now. If we do authorize ANWR today and we do find oil, it will take you 10 years before production is available to the Nation. Reflect on where this country will be in 10 years. Are we going to be importing more oil in foreign tankers and be held hostages by the Mideast again? Will the public and environmentalists come and blame us for not putting together an energy policy? Mr. Presi-

dent, I will do everything I can to ensure that the answer to these questions is no.

I thank the Chair. I yield the floor.

Mr. BRADLEY. Mr. President, this extension of authority to continue purchase of oil for the strategic petroleum reserve could not come at a more important time. With the invasion of Kuwait by Iraq, the oil supply of the world will be disrupted and prices will rise. In such an environment, our most important tool is a large supply of oil in stockpile to cushion the impact of the disruption.

In 1979, when I came to the Senate, we had about 11 days of oil imports in stockpile. After a decade of hard work we now have over 100 days of imports in stockpile. I am proud of these efforts that I have made, along with those of Senator JOHNSTON, Senator MCCLURE, and the late Senator Henry Jackson. Because of these efforts, America is more secure and better able to resist any blackmail by the ruthless tyrant in Iraq, Saddam Hussein.

We need a 1-billion-barrel reserve, which could not only serve as a supply in crises, but which could also be used to moderate price increases that a disruption will inevitably bring. I hope that the conference committee will quickly resolve its differences and accept the 1-billion-barrel target. The sooner that is done, the sooner we will be even better prepared for a world in which oil disruption becomes, unfortunately, more frequent.

Mr. President, I urge the adoption of the 30-day extension of authority so that we can continue to purchase oil and put it in stockpile.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President I believe we are ready for the third reading.

The PRESIDENT pro tempore. The bill, having been deemed to have been read the first and second time, will now be read for the third time.

The bill was ordered to a third reading and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

So the bill (S. 2952) was passed, as follows:

S. 2952

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Short-Term Extension Amendment of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 15, 1990";

(b) in section 171, by striking out "August 15, 1990" and inserting in lieu thereof "September 15, 1990";

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 15, 1990".

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—OIL POLLUTION ACT OF 1990—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the majority leader or his designee may at any time proceed to the consideration of the conference report on the oil spill legislation, H.R. 1465, and that it be considered under the following time limitation on debate: 5 minutes for Senator MITCHELL, 10 minutes for Senator STEVENS, 10 minutes for Senator BAUCUS, 5 minutes for Senator GRAMM, 5 minutes for Senator ADAMS, 3 minutes for Senator KERRY, and 3 minutes for Senator BREAUX; that when all time just stated is used or yielded back, the Senate proceed without any intervening action or debate to vote on the adoption of the conference report.

I can report that this has been cleared, Mr. President.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

Mr. MURKOWSKI. I wonder if it is possible that I may have 3 minutes on this as well.

Mr. JOHNSTON. Mr. President, I amend my request to ask for 3 minutes for Senator MURKOWSKI.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator AKAKA be recognized to address the Senate as if in morning business for 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Hawaii [Mr. AKAKA] will be so recognized.

THE RATIFICATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. AKAKA. Mr. President, I rise today as a former member of the congressional woman's caucus and a staunch advocate of women's rights, I appreciate this opportunity to express my support for the Convention on the Elimination of All Forms of Discrimination Against Women and to urge swift Senate ratification.

The treaty, drafted and adopted by the U.N. General Assembly in 1979, was signed by President Jimmy Carter in 1980. Although the United States championed this international effort to eradicate human right inequities throughout the world, a decade has passed without any Senate action except for a 1988 hearing in Boston chaired by Senator JOHN KERRY.

To date, 103 countries have ratified the Convention, including France, Germany, Japan, and even the Soviet Union. It is inexcusable that the United States is only now beginning to work on the treaty.

Mr. President, this country has always prided itself on being a leader in the field of human rights and civil liberties. It is these fundamental freedoms embodied by our Constitution and the Bill of Rights that sets us apart from other countries. I am therefore disappointed that it has taken the Senate 10 long years to address the ratification of this convention.

The treaty specifically seeks to end sexual discrimination, a universal problem affecting both advanced and developing countries. As the role of women continues to change, the need for more comprehensive and global remedies becomes more apparent. The convention would serve as an effective instrument to achieve equality for women in every facet of life—politics, law, employment, education, health care, commercial transactions, and domestic relations.

Those who oppose the convention argue that it is too broad to be implemented in the United States because the treaty goes beyond our Federal statutes. While this may be true in some instances, it has not stopped many other nations with similar statutes from signing the convention.

Mr. President, will the United States lead or follow the rest of the world on the issue of discrimination against women? That is the question we face today. After 10 years of inactivity I call on my fellow Senators not to forsake the rights and privileges of American women and their sisters worldwide. We must adopt this convention so the United States can become a strong and active voice in seeking international solutions to sexual discrimination.

I do not mean to imply that Congress has been unresponsive to women's issues. On the contrary, because of congressional action on a variety of fronts, the United States has made great strides toward the goals proposed by the convention. Why, then, are we reluctant to embrace the convention itself?

Mr. President, allow me to list several key legislative initiatives of importance to the National Women's Political Caucus, a women's advocacy organization with approximately 50,000 members in all 50 States. All these initiatives are consistent with the goals

of the convention, and demonstrate a willingness of some in Congress to defend the rights of women.

The caucus identified the Minimum Wage Restoration Act of 1989 as a bill that supported women's rights. Initially the minimum wage bill included an amendment I supported to increase the minimum hourly wages from $3.85 to $4.55. Unfortunately, President Bush vetoed the entire bill and the minimum wage was subsequently reduced to $4.25 an hour.

A second issue of concern to the women's caucus was S. 5, which was incorporated into H.R. 3, the Act for Better Child Care or ABC bill. This provided much needed relief to working women by removing some of the burdens and cost constraints of child care. A third piece of legislation, S. 2104, the Civil Rights Act of 1990, successfully passed the Senate after a lengthy floor debate. This act restored job protection to women and other minorities from discriminatory practices and permits punitive damages in instances of intentional discrimination. There is a very real concern that the bill also faces a Bush veto.

Another piece of legislation, although not cited by the National Political Women's Caucus, is S. 345, the Family and Medical Leave Act of 1989. This bill would have ensured American families the right to unpaid leave for childbirth, adoption, or serious illness.

With 65 percent of all American women between the ages of 18 to 44 in the labor force, this bill would have guaranteed job protection in the event of an unforeseen family emergency or in the case of childbirth. Unfortunately, as with many other prowomen legislation, President Bush vetoed the measure and the House was unable to garner enough votes for an override.

Mr. President, I could list more legislation, other actions taken by Congress that have furthered women's rights in the United States. However, it is my firm conviction that we can and should do more. Ratification of the convention on the elimination of all forms of discrimination against women would put the United States back into its rightful role as the preeminent leader in human rights. I call on my colleagues to join me in urging full ratification of the treaty.

The PRESIDENT pro tempore. The time of the Senator has expired.

OIL POLLUTION ACT OF 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 1465 and ask for its immediate consideration.

The PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1990.)

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Louisiana be recognized to address the Senate as in morning business for 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Louisiana [Mr. JOHNSTON] is recognized for 2 minutes.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 2953 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order with respect to this pending conference report be amended to add 3 minutes for Senator CHAFEE.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the oilspill conference report is comprehensive legislation to prevent oil spills, improve preparedness and response capability, and ensure that shippers and oil companies pay the full costs of spills that do occur.

The 11 million gallon *Exxon Valdez* tanker spill and other spills in New York Harbor, California and Texas amply demonstrate that all parts of the country are at risk. A national response is needed to this problem.

I have worked for 8 years on oilspill legislation to protect our coastlines. As the author of the Senate bill, I am pleased we are finally enacting a tough, comprehensive bill.

The legislation requires the President to direct the cleanup of major oilspills. After the confusion following the *Exxon Valdez* tragedy, the Federal Government must provide clear direction in cases of major spills so that there is not another struggle over who is in charge.

The conference agreement does nothing to diminish the liability of the spiller. Instead, it will hasten the cleanup and minimize the damage.

A key provision of the bill increases Federal liability limits, but does not preempt stronger State oilspill laws.

Nineteen States including Maine, already impose a standard of unlimited liability on those who cause oilspills. This bill is a significant improvement in Federal law and does not remove the rights of States to take whatever additional action they believe is necessary to protect their waters from oilspills.

The bill also creates a Federal oilspill fund, financed entirely by the oil industry, which could provide up to $1 billion per incident to pay for damages in cases where the responsible parties cannot be found, are unable to pay, or where liability limits have been reached.

The conference agreement also establishes 10 regional oilspill response groups, requires federally approved spill contingency plans for oil facilities and vessels and creates an oilspill research and development program.

Finally, the bill requires all new oil tankers and barges to be built with double hulls. All existing single hull vessels are required to be phased out by the year 2015. Nearly half of all those over 5,000 gross tons will be phased out within 10 years.

I want to extend my special gratitude to those Senators who played such an important role in the development of this legislation including especially Senator BAUCUS, who chaired the committee which considered this and managed the bill on the floor and Senator STEVENS, who played such a vital role in the development of the Commerce Committee's portion of the bill, and who contributed so significantly during the conference, as well as the many other Senators involved. I thank them for their efforts.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS], is recognized for not to exceed 10 minutes.

Mr. BAUCUS. Mr. President, not long after the 101st Congress convened, the *Exxon Valdez* struck Bligh Reef and dumped 11 million gallons of crude oil into the pristine waters of Prince Willam Sound.

The Congress responded by developing comprehensive new legislation to try to prevent oilspills like the one in Alaska from ever again becoming an ecological catastrophe.

That is what the American people expected. The threat from oil pollution demanded that we do no less.

The conference report we bring before the Senate today completes our task.

It is badly needed.

The past year and a half has been marked by the largest oil spill in U.S. history as well as a series of neverending major spills from Alaska's Prince William Sound to the Delaware River and the Arthurkill; from Montana's Whitefish Lake to Galveston

Bay in Texas and the waters off southern California.

I do not think that these spills are coincidental.

They suggest to me, instead, that spills are too much an accepted cost of doing business for the oil shipping industry.

Many in the industry seem to have decided that it is cheaper to spill and pay for its cleanup than it is to prevent spils and develop effective techniques to contain them.

This compromise legislation developed by the House and Senate oilspill conferees will change that. It encourages prevention by imposing new, tougher penalties for those who pollute or fail to comply with contingency plans.

In addition, when there is a spill from a ship, the owner will be automatically liable for 8 times the current amount. When ship and facility owners violate Federal regulations and cause spills, they will be held fully accountable for all the costs and damages that result from their actions.

Each state can continue to provide further protection for its citizens by inposing higher standards of care in the handling and shipping of oil and by extending liability to anyone who is responsible for spilling oil.

Effective oilspill prevention not only requires encouraging greater care, it also requires better ships. An anchor or a simple grounding should not result in a major oilspill.

Ships carrying oil should be required to have double hulls or other proven designs to cut down the chances of spills when accidents occur.

Under the conference agreement, new ships and barges must be built with double hulls, and existing single hull vessels must be phased out. There are always going to be some spills no matter what we do. But oilspills do not have to become ecological catastrophes. The *Exxon Valdez* spill is a constant reminder of the incredibly high environmental and economic costs of careless contingency planning and chaotic response.

The conference agreement is a strong statement that we should never again be caught so unprepared. It tries to ensure that industry and government are prepared for oilspills, and that they respond quickly and effectively to contain them and minimize damage.

To make sure that industry does cleanup its spills, the agreement requires ship and facility owners to prepare response plans that ensure to the maximum extent practicable sufficient private resources to deal with a worst-case spill.

But cleaning up oilspills quickly and effectively is too important for us to put ourselves completely at the mercy of industry. So the new comprehensive legislation makes it clear that the President must be in charge of the cleanup of major spills. To make sure that the President can respond immediately and effectively when industry does not, the conference report sets up regional Coast Guard oilspill response teams to do the job.

Like most Americans, I was frustrated and angry that we had to coax and embarrass Exxon into staying on the job.

The new legislation makes sure that we will never again be placed in this position.

The President is empowered to compel companies like Exxon to stay on the job until the cleanup is complete. If they walk away from the mess they have created, like Exxon seemed ready to do at times, they could be subjected to heavy damages.

Finally, the comprehensive oil spill bill ensures that Federal agencies, States and citizens are compensated for cleanup costs and damages from oil spills.

To pay for these costs, the legislation makes available $1 billion—from a fee on the oil industry—to pay for spills where the polluter cannot be found, cannot pay, or where liability limits have been reached.

Mr. President, I want to thank the majority leader. He is the sponsor of the Senate bill and his efforts over the past decade have made this day possible. He has pursued this legislation tirelessly, and now he has seen the legislation finally become enacted and very soon signed by the President.

I also want to thank the distinguished chairman of our committee, Senator BURDICK and the ranking Republican member, Senator CHAFEE, for their strong support. He, too, has worked along with the majority leader to help make this bill possible.

Our Senate partners from the Commerce Committee, Senators HOLLINGS, KERRY, BREAUX, DANFORTH, and STEVENS, also deserve our thanks. They, too, worked very hard on the Commerce portions of this bill. Frankly, I have been impressed with how quickly they have been able to reach an effective conference agreement.

Finally, I want to express my appreciation to the chairman of the Finance Committee, Senator BENTSEN, for his efforts to ensure that we have a financially sound trust fund and a bill that works.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator reserves 4 minutes. The Senator from Rhode Island [Mr. CHAFEE] is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, this year in many respects, has not been a good one in the Senate. So much legislation is highly partisan, passed over the objections of one group or another, with the threat of a veto always hovering in the background. This oilspill legislation is different. It is a good result and deserves approval.

Mr. President, with passage of the Oil Pollution Act of 1990, the environment in which shippers of oil, and onshore facilities which handle oil operations will change dramatically. No longer will facilities such as Alyeska in Prince William Sound be able to operate with a paper contingency plan, and little or no equipment and training to back it up. Vessels will no longer be able to enter U.S. ports unless they have an approved contingency plan detailing how it will respond to an oilspill. Likewise, the U.S. Government will significantly improve its ability to respond to spills, by establishing 10 oilspill response teams in each of the Coast Guard districts.

It has been almost a full year since the U.S. Senate, voting 99 to 0, passed a comprehensive oilspill prevention and response bill. Since that time, we have been a witness to several major spills, most recently the spill in Galveston, TX. Recently we were jolted by live coverage of the *Mega Borg*, engulfed in flames and smoke, and threatening to assault the Gulf of Mexico with three times the amount of oil that spilled from the *Exxon Valdez*. In my home State of Rhode Island we recently dodged two bullets, one when the cruise ship *Bermuda Star* ran aground in Buzzards Bay, and 9 days later a potentially catastrophic grounding of a barge carrying crude oil only 3 miles from the site of the *Bermuda Star* incident. In all these cases, as with the *World Prodigy* oilspill in Narragansett Bay of a year ago, luck and favorable weather conditions combined to prevent a major environmental catastrophe.

We cannot afford to rely on luck any longer, which is why we are approving this legislation today. In the case of the *Mega Borg*, this spill occurred under near perfect conditions: calm seas, warm waters, and in an area which has some of the heaviest oil tanker traffic of any U.S. waters. It was far enough from shore—58 miles—but not so far as to impede cleanup operations. Even under these conditions, it took days, not hours, to mobilize the appropriate response equipment. If we have learned one thing about oilspills, it is that immediate response is essential to prevent widespread impacts. Once the oil is dispersed over a wide area, the proverbial genie is out of the bottle and there is little hope of getting it back in. On average, only about 10 percent of oil from a spill is ever recovered. That is why this bill places a heavy emphasis on prevention, most notably by requiring double hulls on all newly built tankers, and phasing out single-hulled ships over a 20-year period.

The legislation before us will provide for this immediate response. It will es-

tablish 10 oilspill response teams, 1 in each Coast Guard district, and provide for stockpiling of equipment such as skimmers and dispersants at strategic locations along our coasts. Whereas current law does not require Federal approval of contingency plans, our bill would require all major facilities handling oil to have a contingency plan approved by the Coast Guard. To prevent a repeat of the Alyeska debacle in Alaska, where the contingency plan was worth little more than the paper it was written on, the Coast Guard will be required to conduct periodic drills and inspections of facilities. Vessels also will be required to have contingency plans detailing arrangements with contractors to respond to spills from the vessel.

This bill will prevent the type of confusion that occurred following the *Mega Borg* incident, by requiring the Coast Guard to assume command of any spill posing a "significant threat of a pollution hazard." If this bill had been law, the Coast Guard would have mobilized nearby equipment to contain the spill and fight the fire, and not have had to rely on a contractor to import equipment from The Netherlands, 5,000 miles away.

This bill establishes a fund of at least $1 billion, financed by a 5-cent per barrel fee on oil, to finance strike teams and oilspill technology research and development, and to compensate victims of oilspills.

I am very pleased that we are not waiting for another *World Prodigy*, which next time may be carrying crude oil instead of home heating oil, and may occur in the midst of a winter storm, instead of on a sunny afternoon. This legislation will help us prevent and respond more effectively to oilspills and represents a major legislative achievement of this Congress.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 1 minute.

Mr. CHAFEE. Mr. President, I would like to pay tribute to all those who participated, especially, of course, the majority leader, Senator MITCHELL, but also Senator BAUCUS, who has worked so hard on this over many years and performed ably in the conference, as he always does, in connection with these environmental matters and the members of the Finance Committee who were represented and the members of the Commerce Committee also.

We came out with a good bill, Mr. President. Sometimes good things happen around here. I believe this is one of those. I want to thank the Chair, and I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized for 3 minutes.

Mr. KERRY. Mr. President, I understand the Senator from Montana is prepared to yield me an additional 2 minutes.

Mr. BAUCUS. I yield 2 minutes to the Senator from Massachusetts.

The PRESIDENT pro tempore. How much time?

Mr. BAUCUS. Two minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 5 minutes. The Senator from Montana has 1 minute remaining.

Mr. KERRY. I thank the Chair.

Mr. President, I rise in strong support of the pending conference report on the Oil Pollution Liability Compensation Act of 1989. I heard the Senator from Rhode Island say sometimes good things do happen around here. I would like to say for all the criticism that the Congress and the legislative process sometimes does receive, this has been one of the rewarding and cooperative efforts in which I have been able to take part in that I think belies that criticism. This legislation cut across committee jurisdictions, and there were thorny and tricky issues which were at stake.

I believe this is a landmark, historic piece of legislation that is going to affect from here on in the way oil is transported in the waters of the United States. It is an important piece of legislation.

I commend the distinguished Senator from Montana for his leadership and those on the Environment and Public Works Committee. I applaud the majority leader for his hard work and for bringing this conferee report to the Senate floor. I also thank my colleagues on the Commerce Committee: the chairman, Senator HOLLINGS; Senator STEVENS, with whom I have worked closely; and Senator BREAUX, all of whom have helped to further this legislation and create a compromise that is important.

Mr. President, just over a year ago or so when the *Exxon Valdez* ran aground, we saw the need to respond. We began to put this legislation together. We held hearings in the Commerce Committee and the Environment and Public Works Committee. This legislation is the outgrowth of that.

Just today, as we gather to agree to the conference report, there is a 17-mile oil slick fouling the northern shore of Galveston, TX, from a ship-barge collision only a few days ago: 500,000 gallons of oil spilled into Galveston Bay, and it is threatening marine habitats, fish, birds, and other species.

And, as the Senator from Rhode Island has said, we dodged a bullet recently in Massachusetts with the *Bermuda Star* and another with the Barge-145 spill. These two incidents occurred in the space of about 2 weeks, not to mention, other spills this past year in New Jersey, Texas, Rhode Island, Delaware, and California. It is clear that it is risky to transport oil, and it is equally clear that accidents are going to happen. But it is also just as clear that we have a responsibility to guarantee that, if they do happen, we know how to respond to them and the response is as rapid as possible. People are going to be held liable to the highest standards of liability and the highest standards of performance are going to be applied to the transport of oil.

I am particularly pleased and privileged, as vice chairman of the National Ocean Policy Study Group, that there are measures in the legislation that are the outgrowth of the hearings that I held. Most specifically, the inclusion of the requirement of contingency planning for all ports and vessels, and the provision that places the Coast Guard in charge of future major oilspills. From the *Exxon Valdez*, we learned a lot.

One of the most disturbing aspects of that spill and several of the subsequent spills was the confused response and the failure of anyone to assume effective command in order to minimize the damage once the accident occurred. Today with passage of this bill it places the Coast Guard as our first line of response and gives them unequivocal responsibility for and the resources necessary to carry out this duty.

In addition during the hearings we found with regard to the *Exxon Valdez* spill, numerous contingency plans were on hand, yet none of them was compatible and the equipment to carry out such plans was not available. These were paper tigers; they had no teeth and simply did not work. For that reason the contingency planning provisions are essential.

With regard to the double hull provision the bill requires all newly constructed vessels to have double hulls and phases out all existing single hulls by the year 2015, beginning in 1995. It is designed to ensure that the oldest and largest vessels—which pose the greatest environmental threat—are phased out first. I am particularly pleased by this because some of the oldest oil carrying vessels serve the northeast. In order to prevent spills that endanger Massachusetts' waterways, it was critical that these older vessels be phased out as soon as possible and at my urging I am happy it was included.

We increase penalties to those who spill, and we make it clear that we are going to try to protect our endangered shorelines and the value of our tourism and the other industries that are so important to us.

In addition we include $1 billion industry-financed cleanup fund, and full compensation for natural resource damage, all designed to prevent the occurrence of environmentally disastrous oilspills such as the *Exxon Valdez.*

Lastly, I want to applaud the fact that the legislation preserves the right of States to require stricter standards of liability than current international protocol standards. I believe this is a key provision in the legislation in that it preserves Massachusetts' tougher standards of liability for anyone responsible for polluting our coastline. I note that I favor an international protocol on oilspill transportation. However, the 1984 protocols that we were considering did not go far enough.

Mr. President, this is a valuable piece of legislation. It is going to have a major impact in protecting our shorelines, our habitats, our precious sanctuaries, the fisheries, and all of the assets that are so vital to us. I again commend my colleagues in helping to respond to the urgent need and in helping to put away regional differences, and even personal ones at times, in order to pass this legislation.

I yield back to the Senator from Montana whatever additional time I have.

Mr. STEVENS addressed the Chair.

The PRESIDENT pro tempore. Senator from Alaska [Mr. STEVENS] is recognized for 10 minutes.

Mr. STEVENS. Mr. President, I join those who are commending all concerned with this bill. This bill has been a long time coming. Unfortunately, it took a substantial disaster in our State to really push it along. I regret that.

I do not think the Senate will ever realize just how much we regret that the commitments made by the Congress at the time the pipeline for Alaska was authorized were not kept. We thought at the time that we had required double bottoms on all tankers that would come into the Prince William Sound. Through a series of failures of successive administrations, that commitment was not kept.

We now have a bill. I think the provisions that came from the Commerce Committee primarily reflect the lessons that were learned after the *Exxon Valdez* disaster, and it is clear, as the Senator from Massachusetts said, that now we will have a provision which does, in fact, require all new tankers to be double hulled and will phase out the existing tankers that are not double hulled by the year 2010.

Actually, we believe that due to the size factor involved in the definition, single-hulled tankers will be phased out of the Prince William Sound by 2005.

Mr. President, I ask unanimous consent that following my remarks, there be printed in the RECORD a short summary entitled "The Oil Pollution Act of 1990." It emphasizes the portions of the bill that I believe are extremely important.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. The Commerce Committee really had jurisdiction over titles IV, V, and VIII with a concurrent jurisdiction over VI and VII, so I will confine my primary remarks to those.

This bill does contain authority to continue research, and ought to have appropriations to do that, Mr. President, to continue research to find out if there is something better in terms of carriage of oil by sea than double-hulled tanker.

For years, we have asked for double bottoms and then for double hulls. But when we said we would like to find out if there is anything better, there have been people who have criticized Alaskans, thinking that for some reason we were attempting to delay the change to double bottoms or double hulls. That has been particularly so from our sister city of Seattle, south of my State.

I want the record to show, again, that Alaskans have led the way in trying to obtain increased protection for the transportation of oil from our State in order to protect our environment. Twenty-five percent of all the oil that is shipped by sea in this country is Alaskan oil. As a matter of fact, half of that shipped coastwise is Alaskan oil.

We do want to assure the rest of the country that that oil is protected as it leaves our shores, but we particularly are concerned about the protection of our own environment. This bill, as I say, carries forward that requirement, and it is a requirement that we have consistently sought, as I have indicated, since the seventies when the pipeline was originally authorized.

This also has a requirement that the Coast Guard review the driving records of all persons who apply for or renew their merchant mariners' documents or licenses. These licenses may be suspended, revoked, or denied, if those persons have been convicted of operating motor vehicles under the influence of alcohol or drugs.

It expands the Coast Guard's authority to investigate marine accidents. It limits the hours that tanker crews can work to 15 hours a day, or not more than 36 hours in a 3-day period. It requires the Secretary to publish regulations that will now require what Alaska has required, that is, two tug escorts for single-hulled tankers, particularly in the Prince William Sound. That provision will also extend to the Puget Sound.

We do believe that the provisions in this bill are the minimum required to respond to the Alaska disaster. The Commerce Committee reported out a bill that had more provisions in it, but in the conference process part of those have been lost. But this does authorize the Prince William Sound Oil Spill Recovery Institute. It authorizes establishment of the oil terminal oversight and monitoring committees which Senator MURKOWSKI will address and were his idea. It authorizes and funds the construction of the bligh reef light on the port side of that reef, and the upgrading of the vessel traffic service system in Valdez, the VTS system.

Had that system been at its original capability, Mr. President, there would not have been an *Exxon Valdez* disaster. This vessel *Exxon Valdez,* went off of the VTS system because after it was installed, it was reduced in capability. Vessel after vessel left Valdez with no problem, so in the interest of economy the capabilities of the Valdez VTS were reduced to about 60 percent of its original capability.

Again, for those of us who live in these coastal communities, the *Exxon Valdez* ought to be a lesson on the need for total vigilance to protect our areas, and those of us, including me, that did not recognize the increased risk to the Alaskan environment must, and have, paid our price in terms of the lack of support from some sources, at least in my State, because they thought we should have prevented that.

It is true; we should have, and now we have restored it beyond its original authorized capability. I hope that the Senate will understand the urgency for that.

Lastly, Mr. President, this bill contains title VIII, which affect the provisions of the trans-Alaska pipeline system. I call the attention of the Senate to section, I believe it section 8102, and I will ask that a portion of its concerning payment of claims by the trans-Alaska pipeline liability fund appear in the RECORD at this point.

This is a very sensitive matter. At the time of the construction of the Alaska pipeline, Alaska went ahead of the rest of the Nation. We asked Congress to create, and Congress did create, an Alaska oilspill fund, the TAPS liability fund we call it.

Now, that fund has been there since the creation of the pipeline. It has collected its maximum of $100 million. It has now earned almost another $200 million in interest. But, Mr. President, the interesting thing is, it never paid out a dime after the great *Exxon Valdez* disaster. The reason was Exxon was the responsible party and assumed the responsibility to make the payments.

This fund now will be transferred into the national fund created by the Oil Pollution Act after the claims that may be due from it are paid, in accord-

ance with existing law and the provision of this section 8102 that I ask be printed in full, Mr. President. So there is no question about the fact that the trustees of TAPS Fund will continue to have the discretion to pay or settle claims based upon their best judgment about the reasonableness of the claims.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

SEC. 8102. TRANS-ALASKA PIPELINE LIABILITY FUND.

(a) TERMINATION OF CERTAIN PROVISIONS.—

(1) REPEAL.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed, effective as provided in paragraph (5).

(2) DISPOSITION OF FUND BALANCE.—

(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the "TAPS Fund") shall reserve the following amounts in the TAPS Fund—

(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)); and

(ii) administrative expenses reasonably necessary for the incidental to the implementation of section 204(c) of that Act.

(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil; and then

(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 after funding sections 5001 and 8103 to the extent that funds have not otherwise been provided for the purposes of such sections.

(3) SAVINGS CLAUSE.—The repeal made by paragraph (1) shall have no effect on any right to recover or responsibility that arises from incidents subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) occurring prior to the date of enactment of this Act.

(4) TAPS COLLECTION.—Paragraph (5) of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is amended by striking the period at the end of the second sentence and adding at the end the following: ,"except that after the date of enactment of the Oil Pollution Act of 1990, the amount to be accumulated shall be $100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring prior to the date of enactment of that Act and administrative costs, whichever is less.".

(5) EFFECTIVE DATE.—(A) The repeal by paragraph (1) shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress that—

(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.

(B) Upon the effective date of the repeal pursuant to subparagraph (A), the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act, but not any existing legal liability.

(6) TUCKER ACT.—This subsection is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(b) CAUSE OF ACCIDENT.—Section 204(c)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(2)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(c) DAMAGES.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), as amended by this title, is further amended by adding at the end the following new paragraphs:

"(13) For any claims against the Fund, the term 'damages' shall include, but not be limited to—

"(A) the net loss of taxes, revenues, fees, royalties, rents, or other revenues incurred by a State or a political subdivision of a State due to injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity due to a discharge of oil; and

"(B) the net cost of providing increased or additional public services during or after removal activities due to a discharge of oil, including protection from fire, safety, or health hazards, incurred by a State or political subdivision of a State.

"(14) Paragraphs (1) through (13) shall apply only to claims arising from incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act of 1990. The Oil Pollution Act of 1990 shall apply to any incident, or any claims arising from an incident, occurring on or after the date of the enactment of that Act.".

(d) PAYMENT OF CLAIMS BY FUND.—Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end the following: "The Fund shall expeditiously pay claims under this subsection, including such $14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties.".

(e) OFFICERS OR TRUSTEES.—Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following:

"(B) No present or former officer or trustee of the Fund shall be subject to any liability incurred by the Fund or by the present or former officers or trustees of the Fund, other than liability for gross negligence or willful misconduct.

"(C)(i) Subject to clause (ii), each officer and each trustee of the Fund—

"(I) shall be indemnified against all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as an officer or trustee, or by reason of any action taken, omitted, or neglected by him or her as an officer or trustee; and

"(II) shall be reimbursed for all attorney's fees reasonably incurred in connection with any claim or liability.

"(ii) No officer or trustee shall be indemnified against, or be reimbursed for, any expenses incurred in connection with, any claim or liability arising out of his or her gross negligence or willfull misconduct.".

Mr. STEVENS. Mr. President, I have worked since the *Exxon Valdez* disaster with a group of people that are called the oiled mayors. And for those who are from the coastlines, I would tell you that if we think we have had a lot of time expended in dealing with the *Exxon Valdez* disaster, the mayors of those small cities were on front lines. They faced their constituents 24 hours a day.

I remember the time that one of them called me and said, "I don't know what to do. There is no place for people who go out and get oil off the bay to put it. My constituents have been calling me and asking me where to put it and I told them I do not know where to put it. There is no depository for that. That's a contaminated substance." He said, "I woke up this morning and all of them have brought it and put it in my driveway."

The frustrations that take place in a small town after a disaster like this are not imaginable for those of us who live in the pristine existence of this hall. These people have faced day after day after day problems that we could not imagine.

This bill I hope will allow every area of the country to set up a plan to deal with a disaster of this type, will require the collection of material to meet that disaster should it occur, will train people to handle the equipment, and to be able to deploy the equipment in the aftermath of such a disaster if it does occur. This puts us in a different place.

The occupant of the Chair at this time, the distinguished President pro tempore, will face many of these problems because moneys needed to pay for oilspill response are subject to appropriations.

My last remark to the Senate would be that one real problem is that an oilspill is like a fire. Once it occurs, Mr. President, money has to be available immediately to allow an adequate response.

We need to work to make sure that money is always available.

I thank the Chair.

EXHIBIT 1

THE OIL POLLUTION ACT OF 1990

Senate and House conferees submitted to Congress today the compromise text of the "Oil Pollution Act of 1990."

Title One of the Act establishes a new liability regime for oil spilled into the navigable waters and Exclusive Economic Zone of the United States. The major provisions of Title One are:

Liability limits are raised from $150 per gross ton to $1200 per gross ton for vessels carrying oil (this means, for example, that the strict liability amount for the EXXON VALDEZ was increased from $14.3 million to $114 million);

A national Oil Spill Liability Trust Fund is established which can provide up to $1 billion per incident to pay for cleanup costs, natural resource damages, and compensate victims for damages;

The types of damages for which spillers are liable have been expanded to include loss of use of natural or subsistence resources and increased costs to state and local governments for fire, police and other health and safety services;

A good samaritan provision protects persons (other than the spiller) acting under the direction of the President or in compliance with the National Contingency Plan from liability, with the exception of gross negligence or willful misconduct;

Liability limits do not apply in the case of gross negligence, willful misconduct, violation of an applicable Federal safety or construction standard, failure to report an incident or refusal to participate in a cleanup as directed by the President; and

Discharges from a public vessel or the Trans-Alaska Pipeline or terminal are not covered by the Act (TAPS has its own liability regime for onshore spills).

Title Two and Title Three contain conforming amendments and senses of the Congress concerning international negotiations on oil spill prevention.

Title Four contains provisions to strengthen oil tankers safety standards and to phaseout all single hull tankers by the year 2010. The major provisons of Title Four are:

The Coast Guard will review the driving records of all persons applying for or renewing merchant mariners documents or licenses, and may suspend, revoke or deny licenses or documents of persons who have been convicted of drunken or reckless driving;

The Coast Guard's authority to investigate marine accidents involving foreign tankers has been expanded to include accidents in the Exclusive Economic Zone;

The number of hours that tanker crews can work has been limited to 15 hours per day or 36 hours in three days;

The Secretary is required to publish regulations to require at least two tug escorts for single hull tankers in certain areas, including Prince William Sound and Puget Sound;

Double hulls are required on all newly constructed tankers, and double hulls or double containment systems are required on all tank vessels less than 5,000 gross tons (i.e. barges);

Existing single hull tankers are phased out based on size and age, with all single hull tankers banned after the year 2010 (due to the size factor, almost all single hull tankers would be gone from the Alaska trade by the year 2005);

Establish Coast Guard oil spill response groups in each of the ten Coast Guard districts;

Require contingency plans that are capable of cleaning up a "worst case" oil spill, which is defined as the loss of a vessel's entire cargo in adverse weather conditions;

Require that vessels and facilities have response plans approved by the President which demonstrate that a vessel or facility has contracted with private parties to provide the personnel and equipment necessary to clean up a worst case spill to the maximum extent practicable; and

Provide increased penalties for violations of statutes related to oil spills, including payment of treble costs by persons who fail to follow contingency plan requirements.

Title Five contains specific provisions for Alaska. The major provisions of Title Five include:

Authorization for the Prince William Sound Oil Spill Recovery Institute in Cordova, Alaska;

Establishment of Oil Terminal Oversight and Monitoring Committees for Prince William Sound and Cook Inlet, Alaska;

Authorization and appropriations for construction of a light on Bligh Reef and the upgrading of the Prince William Sound Vessel Traffic Service (VTS) system;

A requirement for additional oil spill response equipment and personnel in Prince William Sound; and

A requirement that pilots licensed by both the Coast Guard and the State of Alaska pilot all vessels from the Port of Valdez past Bligh Reef.

Title Six requires that all expenditures from the Oil Spill Liability Trust Fund, except compensation for damages and $50 million per year for oil spill response, be subject to annual appropriations.

Title Seven authorizes $27 million per year for national research efforts on oil spill response and damage assessment.

Title Eight contains provisions affecting the Trans-Alaska Pipeline System (TAPS). The major provisions include:

Repeal of the TAPS Liability Fund after all claims have been paid, with any remaining money deposited in the new national fund after a rebate to the State of Alaska for its share of the money transferred;

An increase from $50 million to $350 million for the limit on damages for onshore spills from TAPS (the unlimited liability for cleanup costs is the same);

A provision requiring the TAPS Fund to pay the shipper's $14 million portion if the shipper does not reimburse claimants within 90 days after they file a claim; and

A two year engineering audit of the integrity of TAPS, including both the pipeline and terminal.

Title Nine contains provisions related to the Tax Code.

Mr. ADAMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. ADAMS] is recognized for 5 minutes.

Mr. ADAMS. Thank you, Mr. President.

Mr. President, even before the *Exxon Valdez* disaster the Congress had been working for years on comprehensive oil spill legislation, but the disaster gave movement to that legislation.

Throughout this Senate process my first goal has been the prevention of oilspills in Puget Sound. To achieve that goal and protection of our world's ocean environment I focused on prevention measures. The most recent spills off the Texas coast proved once again that preventing oilspills from happening is the only way preserve Puget Sound and the other fragile marine areas of our entire Nation and, yes, our entire world.

Once the oil is in the water, the battle to preserve our world's coastlines and living marine resources is already half lost. I have long felt that the single most effective preventive measure that can be achieved through legislation is to require oil tankers carrying oil in American waters to be equipped with double hulls.

Along with the late Senator Warren Magnuson I fought for double hulls for nearly 20 years. At last with this conference report we can claim victory. This legislation mandates double hulls on all new construction, and mandates a phaseout of the existing single-hulled fleet within 25 years.

I agree with those that find that phaseout period too long. The mandate for new construction however is a statement by the Congress, and particularly by this Senate, that double hulls are safer than single hulls. It will give banks, insurance companies, and citizen groups excellent leverage to put pressure on companies to make the transition to double hulls as quickly as possible. We already see that beginning to happen.

Mr. President, I have only one regret; that is, I wish Senator Magnuson were here today. This was his fight and this is his history. But I also want to give thanks to the people on my staff like Bruce Need, who is here beside me. Burce's hard work, thorough knowledge of the issue and dedication to the protection of our coastal environment is greatly appreciated by the citizens of Washington State. Over the years that Bruce has worked with me I have gained a tremendous respect for his abilities. His actions on this oilspill legislation illustrate, once again, his great skill in working with the legislative process. In addition, I would like to thank the former Deputy Secretary of Transportation, Alan Butchman, who I sent to London in 1977 through 1979 to try to negotiate double hulls throughout the world.

Especially I want to express my gratitude to the majority leader, and to my colleagues who have brought this conference report to the floor. This is truly a great day for the marine environment of the world. I just hope that all who live in this world, and particularly those who can enjoy the marine environment, are putting in place as

we in Puget Sound the traffic control systems, have double-hulled tankers plying their trade, and plans to deal with any accidents that occur.

Mr. President, I am so pleased to be able to be here today and vote for this conference report on comprehensive oil spill legislation, and particularly that we will have double hulls protecting Puget Sounds.

I yield the remainder of my time.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI] has 3 minutes under the order.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise to compliment the members of the conference report for the extraordinary job that they have done in formulating this oilspill legislation.

Particularly I would like to recognize the contribution of the senior Senator from Alaska [Mr. STEVENS] who had the obligation as a consequence of the accident which occurred in our State, to take that leadership. I think it has been expressed in the conference report that we have before us.

The oilspill was a tragedy. But, we have learned important lessons from it.

I would like to highlight one provision of the conference report commented on by Senator STEVENS. We have crafted a provision providing for the rebuilding of a partnership between the industry and the citizens of our State through oilspill advisory boards. I am pleased to say that this is at no cost to the taxpayer.

This idea came up in the aftermath of the spill. I had an opportunity to spend some time in Alaska meeting with the affected communities. Approximately 67 meetings were held where we listened to the frustration of the local people. They wanted to be heard. They wanted to know how the spill happened, and how it could be assured that it would not happen again.

As a consequence, the advisory group idea was formed. We also relied on the experience resulting from a spill that took place in Scotland, Sullom Voe, that occurred several years ago. We now have been able to put together citizens who work in the area, that fish in the area, and that use the waters of Prince William Sound in other ways. They will have a responsibility to work in harmony with industry in overseeing an oilspill prevention, containment, and cleanup plan. We have formed two advisory groups. One will be funded by Alyeska, the pipeline consortium, for $2 million, and the other will be financed by Cook Inlet operations for $1 million.

This will rebuild trust by giving the citizens necessary involvement and oversight responsibility. The groups will also provide important recommendations to both industry and regulators. They will have teeth, which I think is significant. I believe the effect will improve the technology for oilspill prevention, containment, and cleanup. The groups will review state of the art methods of spill containment and cleanup. The groups will present an awareness that industry could not have because industry is not involved in the daily process. They will address spill responsibilities on a level of people who are not employed by industry. Therefore, they will have a self-policing mechansim.

Finally, Mr. President, as we look at the report of the National Transportation Safety Board in this accident, there was enough blame for everybody. The fingers point all different ways. They point to Exxon for overtaxing crews, they point to the Coast Guard for not enforcing regulations, to the State of Alaska for not mandating pilots out in the ocean, and to the State Department of Environmental Conservation. As a consequence we have enough blame for everybody.

But we can learn from this lesson. That is hopefully what we have done with this legislation.

I also want to inform my colleagues that EPA Administrator William Reilly recently visited Prince William Sound and reported favorably on the condition of the spill impacted beaches.

I thank the Chair.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. BREAUX] is recognized under the order.

Mr. BREAUX. I thank the Chair.

I, too, would like to congratulate all of the Members who participated in bringing this measure to the floor. Particularly, I want to congratulate the distinguished majority leader. Because of his persistence and dedication over a long period of time, we now have this product before the Senate.

Mr. President, others have described the provisions of the bill. Let me take this opportunity to point out that one of the reasons we need this bill is because we have an energy policy in this country that simply is not working. The events of yesterday and today, when we see Iraq attacking Kuwait, are another example that an energy policy that requires us to import over 50 percent of the oil that we use in this country is a policy that is not working; it is not good not only for energy but for the environment.

We are facing spill after spill washing up on our shores. We are importing over 50 percent of the oil that we use in this country. It is coming in, in foreign bottom ships, coming into the ports in rusty buckets. Of course, they are going to have accidents and, of course, there are going to be spills.

One of the needs we are addressing in this legislation is creating $1 billion fund in order to clean up oil that is being spilled. The bill will require that the ships now are better made, better built, and have better crews; all of that is good.

Mr. President, as long as we in the Congress continue to say that we are not going to produce in this country, we are not going to produce off our shores, as long as we continue to pass moratorium after moratorium saying "Do not drill here; we would rather import it from Kuwait, from Iraq; we would rather import it from OPEC," we are going to continue to have these problems. The administration x'd out, selectively, areas in this country saying "Do not drill here."

This bill has a provision saying "do not drill off North Carolina." The simple truth of the matter, as shown by the National Academy of Sciences, is that the oil being spilled is not coming from our drilling operations. The National Academy of Sciences points out that less than 2 percent of oil spilled in the oceans of the world come from drilling operations; most of it comes from tanker operations.

As long as we have a policy that encourages foreign imported oil to continue to be brought to our shore, we are going to continue to have the problems that this bill, hopefully, will address. Until we get an energy policy that allows us to develop our own resources that we can develop more safely, we are going to continue to face foreign ships coming into our ports with foreign crude and having accidents and causing problems.

It is clear that the majority of the spills come from tanker operations and will continue to. And as long as we have a policy that encourages that type of an operation, we are going to continue to see the problems we are facing and the reason why this legislation is so necessary.

This legislation goes a long way, and the Senate should adopt it. It is a major step in the right direction.

For all of those who participated in the process, let me offer my congratulations for a job well done.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Texas is recognized for up to 5 minutes.

Mr. GRAMM. Mr. President, a year ago this week, the Senate passed this bill with a vote of 99 to 0. It has taken us a year to work out our differences with the House. During that period, Texas has had two major oilspills. One of those oilspills—even as we speak here today—is fouling beaches and habitat areas in the Galveston Bay.

Mr. President, this bill today is not going to correct that problem, but it is going to give us the tools in the future to try to prevent problems similar to

this from occurring and will give us the tools to clean them up on an expedited basis when they do occur.

Where in America could you operate a major industrial center or a major port without a fire department, a fire department manned 24 hours a day, a fire department with the equipment that you might need if there was a fire present? You could not find such a situation anywhere in America, Mr. President.

But today, we operate ports that transport tremendous amounts of crude petroleum and petrochemicals where spills do occur, without having onsite the cleanup crews that are needed, the equipment that is needed, and the supplies that are needed.

This bill is a major step in ending that situation forever, in guaranteeing that at every major port in America, we are going to have a response team, that they are going to be available 24 hours a day, that they are going to have the tools that they need.

Also, this bill commits us to research and develop new prevention and cleanup techniques that are vitally important for the future. So, Mr. President, this bill is late, but I am delighted that it is here, and I think it is vitally important for America.

I yield the remainder of my time to the Senator from Washington.

Mr. GORTON. Mr. President, as I look forward to enjoying the breathtaking scenery and beauty of the Puget Sound area during the August break, it gives me great satisfaction to know that the Congress has come one important step closer to protecting this beautiful natural resource and our other precious national shorelines.

The Senate is about to approve one of the most important pieces of environmental legislation to come before this body in many years—the oilspill conference report. Sixteen years in the making, it will provide a far greater degree of protection for our marine environment from the horrendous damages caused by oilspills.

Last August, I offered an amendment which was narrowly defeated in the Senate which would have improved unlimited liability on shippers in the event of an oilspill. While I was disappointed in the outcome of this vote, I take great pride in seeing that the Senate's insistence against preempting State unlimited liability laws prevailed in the conference. This provision was essential to preserve our right in Washington State to require unlimited liability. Also ensuring, that right was the Senate's position insisting upon the deletion of language which would have implemented international protocols on oilspill liability. Fortunately, the Senate position on this measure also prevailed in the conference. Instead of implementing the protocols, the bill contains a nonbinding resolution stating that the United States should participate in an international oil pollution liability and compensation system that is at least as effective as Federal and State laws.

I also want to compliment my colleague, Senator ADAMS, for his role in obtaining a double hull requirement for oil tankers. I was disappointed that his amendment which would have required double hulls was also narrowly rejected by the Senate last August. But fortunately, the closeness of this vote, together with Senator ADAMS work and dedication set the stage for the final provision which requires double hulls on all new oil tankers and barges.

In addition the bill requires the phasing-out of single hull vessels over 5,000 gross tons. It is estimated that 45 percent of the fleet will be phased out by the year 2000, 85 percent by the year 2005 and 100 percent by the year 2010.

I also want to recognize the achievements of another Washington State colleague, Congressman CHANDLER. On the House side he was able to insert a provision which I sponsored on the Senate side, which will require tug escorts of oil tankers in Puget Sound, around the San Juan Islands and in the Strait of Juan de Fuca. Specifically, the bill directs the Secretary to define those areas of Puget Sound, the Strait of Juan de Fuca east of Port Angeles, Haro Strait, the Strait of Georgia and Rosario Strait on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels.

The Oil Pollution Act of 1990 includes other important provisions which will encourage more cautious and safe behavior by those corporations we entrust to move oil over our waters. Liability limits are raised from $150 per gross ton to $1,200 per gross ton. These liability limits do not apply in the case of gross negligence, willful misconduct, or in the case of a violation of an applicable Federal safety or construction standard. Important manning standards are included limiting the number of hours a crewmember can work on a vessel. New alcohol and drug testing requirements are included. New requirements calling for national planning and response systems are established. A district response group, including response personnel and prepositioned equipment, would be established in each of the 10 Coast Guard districts. A national oilspill liability trust fund is established to provide up to $1 billion per incident to pay for cleanup costs, the damage done to natural resources from a spill and for compensation to victims.

Mr. President, I commend my colleagues for their hard work and diligence in enacting this piece of legislation. It is bound to be one of the single most important initiatives passed by the Congress this year.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LAUTENBERG be permitted to speak for 3 minutes, and that 1½ minutes of that time be yielded to him from the time remaining of the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, Senator LAUTENBERG is recognized for 3 minutes.

Mr. LAUTENBERG. Mr. President, I rise today in support of the conference report on the Comprehensive Oil Spill Liability and Compensation Act. The manager of this bill, Senator BAUCUS, continues to distinguish himself as a leader in the fight for a cleaner environment. This is further evidence of those efforts. I congratulate him for that. I particularly, however, want to note the contribution of the majority leader to the development of this bill. He has been working on this issue for more than 10 years. His persistence and insistence that States not be preempted in their actions has finally born fruit. I am pleased to have been part of that. It was well over a year ago that I joined the majority leader and Senator BAUCUS in introducing S. 686, the bill which served as the basis for the conference report now before us. It has been almost a year to the day since the Senate passed this important legislation. Over the course of that year, much has happened. Oilspills have continued to foul our waters. No area has been hit harder, or more frequently, than my region.

Located between the Delaware River and New York Harbor, New Jersey sees vast amounts of oil transported along our coastal waters. But, too much of that oil is ending up in our waters, and on our coastline; this is something we cannot tolerate.

In the measure we are about to approve, we take a major step forward in battling this threat to our precious coastal resources.

This legislation attacks the problem from all directions. Consistent with the bill that I introduced in April 1989, it will help prevent spills by requiring contingency plans for those involved in the transport of oil. Without an approved plan, shippers will not be allowed to conduct business in U.S. ports.

The bill greatly increases the penalties for spilling oil into our waters. Liability limits are significantly increased, to the greater of $1,200 per gross ton or $10 million for tankers. These new liability limits are essential in making it clear to shippers that they will pay, and pay dearly, for the types of mistakes we've seen in the industry.

The conference report also protects the rights of States to impose their own standards of liability on oil operations. This has been a major sticking

point that has prevented passage of a comprehensive oilspill bill for years. Since 1986, I have been working with the majority leader to try to pass a bill. Each time, the House has sought to preempt State law, and each time we have refused to take away the ability of our States to be tough on spillers.

It is essential that we make sure that States like New Jersey have the tools at their disposal to be able to best protect their waters. Finally, this year the House yielded on this key point. The rights of States to have tough oilspill laws are protected. And we will have the comprehensive national law that we need.

The conference report also makes important improvements to the Coast Guard's oilspill response structure. Enhanced resources are authorized for each Coast Guard district, to complement private resources. The conference report also reaffirms the Coast Guard's authority to establish and maintain strike teams to respond to major spills of oil and other hazardous substances.

As my colleagues know, I chair the Transportation Appropriations Subcommittee. In putting together the fiscal year 1991 transportation bill, one of my highest priorities was making sure that it provides the Coast Guard with the resources to do its job. In that bill, recently reported to the floor, I included $53 million for the Coast Guard to implement the responsibilities laid out in this legislation.

Within those funds, I earmarked $7 million for the establishment of a new Atlantic strike team, to be located in New Jersey.

Right now, there are only two strike teams—one in Mobile, AL, and the other near San Francisco, CA. This has proven to be inadequate. When I can get to the site of a spill more quickly than the strike team, something is wrong.

The response time for the Mobile strike team to reach spills in the Northeast has averaged about 12 hours. When the first few hours can mean the difference between containment and catastrophe, that is unacceptable.

Formation of this new team will provide for timely, effective Coast Guard response to spills in New York Harbor and on the Delaware River, and throughout the eastern United States.

The bill also takes a significant step forward with regard to double hulls. The double hulls provision included in this conference report is a good one, but not as good as I would have liked to have seen.

However, it is stronger than the provision included in the bill that passed the House in that it starts phasing out single—hulled vessels in 1995; a full 5 years earlier than under the House provision.

Like the House provision and the Adams amendment that I supported on the Senate floor last August, it requires all new tankers entering the U.S. trade to be doublehulled.

But, there are weaknesses in the provision. The phaseout period is too long. And, it provides an exemption for small barges, which account for a significant amount of traffic in my region.

Mr. President, the lessons we've learned over the last 18 months or so have been painful. I went to site of the *Valdez* spill with the Coast Guard.

As anyone who has been there will attest, the devastation of that pristine environment was a tragedy to see. At the same time, we saw nature at its best, and man at his worst.

Oilspills have devastated New Jersey and other areas. Just since January of this year, more than 1 million gallons of oil have been spilled into our waters.

I have been to the sites of these spills. Each time is more frustrating than the last. We have had enough. We cannot sit by, as oil companies, more concerned with corporate profits than environmental protection, continue to present candidates for the "Spill of the Month Club."

The citizens of New Jersey have spent countless hours and resources working to clean up our coastal waters. Shellfish beds have returned to areas long ago considered dead. It's a tremendous success story, and we are proud of it. But, in a few hours, oilspills have wiped out all the years of hard work. It is an outrage, and it has to stop.

Enactment of the conference report pending before us can significantly reduce the chances of such spills wreaking havoc on our national resources. I urge my colleagues to support this vital legislation.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from Montana, Mr. BAUCUS.

Mr. BAUCUS. Mr. President, I point out this is not just a coastal State problem. One year ago yesterday there was a massive spill in White Fish Lake, MT, a very pristine lake. Many oil tankers spilled into White Fish Lake. It was a massive spill.

It is my hope this legislation will also tend to prevent those kinds of spills happening and the liability and cleanup provisions will go a long way.

Mr. President, at this point I also give my special thanks to the chief committee staff person dealing with this issue, and that is Mr. Bob Davison. He, along with the minority staff member, helped fend off hordes, swarms of House committee staffers, and did a great job of putting together this oilspill conference report and the Senate is indebted for the work of Bob Davison.

Mr. STEVENS. Mr. President, will the Senator yield for one comment?

Mr. BAUCUS. I yield.

Mr. STEVENS. Earl Comstock has done the negotiation for the Commerce Committee. He has done a admirable job. I commend him.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair will remind the Senator under the unanimous-consent agreement there are only 1 minute and 20 seconds allocated to the Senator from Montana.

Mr. CHAFEE. Mr. President, in additoin to those Senators who have spoken today, I commend the service of Senators JEFFORDS, WARNER, and DURENBERGER, and also thank the distinguished Senator from Alaska [Mr. STEVENS] for the work he has done. Truly this bill stemmed from the *Exon Valdez* disaster and the contribution Senator STEVENS, Senator MURKOWSKI, and others made was certainly significant.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LIEBERMAN from Connecticut be recognized to speak for 2 minutes and that 1 minute from our remaining time be allocated to him to constitute 1 of those 2 minutes.

The PRESIDING OFFICER. The Senator has 1 minute, so the Senator's time will have expired.

The Senator from Connecticut is recognized for not to exceed 2 minutes.

Mr. LIEBERMAN. Mr. President, I rise in strong support of the Oil Pollution Act of 1990.

I congratulate the members of the committees and the conferees who have worked long and assiduously for so many years on this legislation and particularly Senator MITCHELL for his long and unyielding perserverance in bringing this bill to a conclusion after 8 hours of enormous battles.

I am particularly pleased that the legislation assures that those who are responsible for damaging our fragile environment will be subject to substantial civil and criminal penalties in addition to responsibility for cleanup costs.

In the aftermath of the *Exxon Valdez* disaster, many of us were shocked by the inadequacies in our current scheme of laws governing oilspills.

In particular, our laws contained many ambiguities with respect to the amount of penalties which could be assessed against polluters. The laws also contained no power for the Government to order cleanup of oil from a vessel, and no power to assess triple cleanup costs if a polluter violates the Government's order.

In response to these inadequacies, I along with colleagues on the Environment and Public Work Committee, in-

troduced a bill last year to expand and strengthen both the provisions relating to penalties which can be assessed against those responsible for an oilspill and the Government's enforcement authorities. I am extremely grateful that the legislation before us today contains many of the provisions from this bill, including: raising the civil penalties for oil discharged in violation of the Clean Water Act to up to $1,000 per barrel discharged, providing for a range of criminal penalties, including in the event of knowing violations causing others serious injury, imprisonment of up to 15 years, and providing the Government with the clear authority to order a polluter to conduct a cleanup until it is completed and to assess triple the cleanup costs if the polluter fails to comply with the order.

The strong civil and criminal penalty provisions of this bill are designed to ensure that companies will act in a manner which protects our fragile environment. Unfortunately, the sad fact is that once a spill occurs, the experts tell us we are lucky if 10 to 20 percent of the spilled oil is recovered. While other provisions of this bill seek to ensure that new cleanup technologies are developed to help change this situation, the most effective way to ensure that companies act in a manner which will prevent the spill in the first place is to spell out the consequences of their failure to do so.

It was my intent in writing the penalty provisions of my legislation, which have been substantially adopted in this bill that, in the event of a spill, the Government apply the penalty provisions in a manner which will punish the violator and deter and prevent future violations. Large civil penalties and criminal penalties—where criminal enforcement is appropriate—are also especially important because, in certain cases, the liability of the spiller for cleanup costs under Federal law is limited by the provisions of this bill; aggressive penalties may need to compensate for this limited liability. At the same time under the terms of this bill, in those situations where the liability limits may be pierced, the violations are particularly egregious and strong penalties must also be sought. In enforcing these provisions, the Government should also bear in mind that law enforcement officials, including the Attorney General of the United States, have recently emphasized that criminal enforcement is a particularly effective tool in securing compliance with our environmental laws; this special deterrent effect should be strongly considered in those cases where the Government may have discretion to apply civil or criminal penalties.

There are important provisions of this bill which provide the Government with authority to order a polluter to cleanup. These provisions are designed to be used not only right after a spill occurs, but also to prevent a situation such as the one which occurred last fall when Exxon attempted to establish a nonnegotiable date of departure from Alaska despite the fact that the cleanup wasn't completed. This bill makes clear that the Government can issue an order to Exxon to do the work and if Exxon refuses to comply, it will be assessed up to triple the costs the Government is forced to incur; these treble damages are in addition to recovery of the response costs themselves. The Government's use of similar administrative order authority in our Superfund law has been extremely effective in getting responsible parties to take cleanup action. I am convinced that if this legislation had been law last fall, it would have been the Government, not Exxon, which would have been issuing nonnegotiable demands.

Mr. BENTSEN. Mr. President, the oilspill incident in Galveston Bay, a little more than a month after another major oilspill just 57 miles off the Texas coast, points up the need for oilspill legislation. I am pleased that we are finally acting on the oilspill bill and sending it to the President.

Mr. President, to the average Texan, this bill was needed long ago. Texans are now in the grips of another major oilspill. Just last Saturday a major oilspill occurred in Galveston Bay, one of the most important estuaries in the Nation. The spill resulted when an outbound Greek tank ship, M/V *Shinoussa,* collided with three inbound tank barges, which carried an estimated combined total of 2.6 million gallons of oil catalytic feed stock ("catfeed oil"), a refinery oil similar to No. 5 oil. The oil is fairly heavy. The Greek tanker sustained little damage, but two of the barges were severely damaged; one even sank.

The initial estimates underestimated the amount of oil that spilled—50,000 gallons. After a preliminary diver's survey, the spill estimate was revised upward to 500,000 gallons, which made the spill a major pollution incident. There is no question that this spill will have a major environmental impact.

If we don't get it under control within the next few days, I am afraid of what that portends for the bay. That is why the most important thing right now is that we have enough cleanup personnel and equipment on the scene to get this spill under control, and to prevent it from spreading to more environmentally sensitive areas. I have done a lot of work to preserve Galveston Bay, and one spill like this can set us back years.

That is why the action we take today is so important and timely. We need this now more than ever. All of us are familiar with oil spills and the environmental damage they can cause. This bill helps to address these problems. Among other things, the bill establishes a Federal oilspill compensation fund. I am pleased to have had a chance in developing the structure of this fund. Last year, the Finance Committee increased the financing rate for the oilspill liability trust fund to 5 cents per barrel of petroleum and increased the size of the fund. The Finance Committee also increased the borrowing authority of the fund to $1 billion. Taken together, these changes will empower the trust fund to respond effectively and forcefully to a major oilspill.

The bill also increases the liability for those who cause oilspills. The pollutter pays principle is alive and well in this bill. The bill also requires double hulls on most oil tankers, and requires better contingency planning and preparedness on the part of tank and barge owners, Federal, State, and local governments.

Damages for which spillers would be liable include loss of profits or earning capacity due to property or natural resource damage, and property damage and losses. States could also seek natural resource damage compensation. The bill also preserves the right of States to have oilspill liability laws. The bill has many other important elements, including requirements for direct oilspill response teams to be located within each Coast Guard district. The oilspill bill would require regional oilspill response teams, one in the Gulf of Mexico, that could be dispatched quickly to the scene. The teams would be trained to respond to oilspills unique to a given region, whether the frosty environment of southwestern Alaska or the war currents and conditions of the gulf coast. These teams would be full-time trained personnel. They would be able to command fully operations vessels, complete with equipment for containment, recovery, dispersal, shoreline cleanup, and protection of fisheries and wildlife resources.

The bill requires that oil spill containment equipment be on board oil tankers; that a legally binding plan be in place to deal with such disasters immediately. No more waiting until the right equipment and the right people come from another part of the world as happened in the case of the *Mega Borg.*

The bill covers any oilspill in U.S. waters—out to 200 miles offshore—by a foreign or domestic shipowner who does business in this country or stops at one of our ports. That means that under the bill *Mega Borg* oil spill would be covered, and the responsible Norwegian owner would have been liable for cleanup costs and damages.

Mr. President, we can no longer afford to accept oilspills as a necessary cost of doing business. They are not.

We have to prevent them, and when they occur, we have to act quickly to clean them up.

The oilspill now down in Galveston Bay, the *Mega Borg* spill just 57 miles off the Texas coast a month ago, the *Exxon Valdez* disaster are more than enough proof that this bill is what is needed now—finally. I am pleased to support it.

Mr. LEVIN. Mr. President, I rise in support of H.R. 1465, a bill to revamp our national spill response and prevention programs. I was an original cosponsor of the Senate version of this bill. I am glad to say that final version is even better than the first.

Eighteen months ago, our television screens filled with scenes of blackened beaches, oiled birds, and maps marking the shipwreck of the *Exxon Valdez* in Prince William Sound, Alaska. The Nation collectively recoiled at the environmental damage caused by the tanker's 11 million gallon spill. The public outcry galvanized Congress into action, and for the last year, it has been working on legislation to address not only the tragedy in Alaska but the need to protect all American waterways from the threat of massive oilspills.

That is because this is truly a national problem. The *Exxon Valdez* was only the first of many television exposes on spills in American waters over the past year. We have seen the billowing smoke from the *Mega Borg* burning off the gulf coast, the repeated pollution of the Arthur Krill waterway near New York, and the oil-laden marshes from the latest spill in Galveston Bay.

My part of the country is also at risk. At a hearing I held last September, we learned that the Great Lakes actually experience hundreds of spills each year. We learned that about 50,000 oil storage facilities line the shores of the Great Lakes, and about 81 million barrels of oil and chemicals traveled Great Lakes waters in 1989 alone. Prior to this hearing and an extensive data search by the Coast Guard documenting about 5,000 spills of oil and toxic chemicals during the 1980's few people had any idea that the Great Lakes were as much at risk as our saltwater coasts of experiencing a massive spill.

But the Great Lakes do have that risk. Even worse, it is now clear that the region is ill-equipped to handle a major spill. Accurate equipment inventories did not exist when we began, but the preliminary reviews now indicate significant gaps in such basic spill-fighting equipment as oil containment boom. Regional reports have identified a host of unpreparedness problems including an absence of maps of environmentally sensitive areas, a lack of contingency plans to treat oiled wildlife, and inadequate protections of drinking water intakes. Spill prevention programs for the region administered by the Environmental Protection Agency and Coast Guard have suffered dramatic cutbacks with corresponding increases in spills. Federal spill research programs, whose funds dropped about 90 percent during the 1980's, have virtually no projects focussing on Great Lakes concerns.

The Great Lakes' vulnerability to oilspills and the glaring inadequacies in its spill response and prevention measures led me to introduce in September 1989, S. 1646, the Great Lakes Critical Programs Act. This bill proposed a number of improved spill protections for the Great Lakes, including a federal emergency spill response center, an inventory of spill-fighting equipment, and renewed research into Great Lakes concerns. The Senate Great Lakes Task Force endorsed these proposals and joined me in lobbying for their inclusion in the comprehensive oilspill legislation then working its way through Congress.

I am happy to report that H.R. 1465, before us today, incorporates virtually all of the oilspill protections I proposed in S. 1646. First and perhaps most importantly, it mandates the establishment of a Federal emergency spill response center for the Great Lakes region. This center will help us in two ways: It will stock equipment needed to fight a major spill—equipment which we do not have now—and it will store this equipment in the area to permit quick response. Right now, we would have to wait about 12 hours for that equipment to be flown in from the Coast Guard center in Mobile, AL. The establishment of this Great Lakes emergency center is a significant improvement in the region's spill response capability. It will give us a fighting chance to stop a major spill.

Second, the bill mandates the creation of a nationwide computerized inventory of spill-fighting equipment. This inventory will be operated by the Coast Guard and will include Great Lakes equipment. That means, in the event of a major spill in the Great Lakes, the Coast Guard will be able to use its database to mobilize needed resources quickly—not only within our region, but also throughout the country.

Third, the bill will revive Federal spill research programs in a way that will include projects on Great Lakes concerns. In essence, it will authorize Federal funding of research projects in each of the 10 Coast Guard districts—including the Great Lakes district—to address the concerns relevant to each district. that means that research proposals within the Great Lakes district will address Great Lakes concerns such as the protection of drinking water supplies. This system will allow a loose coordination of Federal research efforts, while ensuring that the concerns of particular regions, like ours, are addressed.

Fourth, the bill will tighten pilotage requirements for ships travelling through the Great Lakes by ending Canada's practice of issuing so-called B certificates to pilots of foreign flag vessels. These certifications allowed foreign ships to employ pilots who were less qualified and less familiar with the Great Lakes to steer the ships through areas designated as difficult to navigate. The bill will stop this dangerous practice by requiring foreign-flag ships to use fully qualified and licensed American or Canadian pilots to navigate in the designated waters. While this spill protection was not part of S. 1646, it was discussed at the September hearing and is an important and welcome measure.

Fifth, the bill includes a provision that Senator KOHL and I authored separately to require the United States to sit down with Canada and determine what changes, if any, are needed in the United States-Canada Great Lakes Water Quality Agreement to prevent spills, improve coordination of our spill response efforts, and apportion cleanup costs should a spill occur in the Great Lakes. Since Canada is undergoing a similar, comprehensive review of its spill response and prevention capabilities, this review will provide timely and valuable service to both countries.

I could continue listing the bill's benefits for the Great Lakes region, but I think it is enough to stop here and state that the legislation represents a major step forward. The bill will not cure all the inadequacies in our spill response and prevention programs, and it certainly will not stop all the spills. But it is a sweeping, responsible and intelligent reform, and it represents a major victory for those fighting to reduce Great Lakes spills.

Besides the provisions that specifically address the Great Lakes, the bill has many general provisions that strengthen our ability to combat spills. For example, it more than doubles the penalties on polluters and links the size of those penalties to the size of the spills. That means, for the first time, bigger spills will mean bigger fines. The legislation also strengthens and clarifies the chain of command involved in cleanup operations—in essence, it requires the President to take charge of a spill response operation unless another party is found capable of cleaning up the mess. That means cleanup operations will be smoother and less dependent upon the good will and response capabilities of the polluter that caused the damage.

It takes other actions as well, including establishing an industry-financed cleanup fund, requiring double hulls on oil transport ships, and establishing a national network of emergency spill

response centers. It also preserves the rights of individual States to enact even tougher spill response and prevention measures.

Oilspills are a real and continuing threat to our waters, our wildlife and ourselves, and we've got to do as much as we can, first, to prevent them and, second to protect ourselves as much as possible when they occur. H.R. 1465 will go a long way towards accomplishing those goals.

I want to express my gratitude to my colleagues for the hard work that they and their staffs put into drafting, negotiating and persisting in their efforts to reach agreement on this legislation. I particularly want to thank the majority leader, GEORGE MITCHELL, and his staff, for their untiring efforts. The final bill is a good one, and I believe history will mark it as a major accomplishment of the 101st Congress. I urge my colleagues to join with me in voting for final passage.

The PRESIDING OFFICER. All time has expired.

The Chair recognizes the Senator from Montana [Mr. BAUCUS].

OILSPILL LIABILITY

Mr. DOLE. Mr. President, I am pleased to support the conference report accompanying H.R. 1465, the Oil Pollution Act of 1990, even though it falls short of action urged by President Reagan and includes a last minute moratorium on a promising lease in the Outer Continental Shelf.

The act will, for the first time, provide for both the authority and money to quickly respond to maritime accidents in which crude oil and petroleum products contaminate our oceans, rivers, and lakes. It imposes a $0.05-per-barrel fee on oil shipped through our ports which will be held in trust for use in containing and disposing of oilspills. Up to $1 billion could be spent on each incident. In addition, a $50 million Presidential fund is provided for rapid responses to spills.

In the past few years, maritime accidents have left oil contamination in every coastal region of our country, while we have been left virtually helpless to respond as a Nation. Private efforts have attempted to respond, but inadequate equipment and delays due to the need to transport equipment have shown us that more needs to be done. This legislation will be an important first step in protecting our shores, by providing for a uniform response.

Unfortunately, the Senate has not acted to ratify the international civil liability and fund protocols sent to us in 1984 by President Ronald Reagan. These protocols seek to protect all the Earth's seas and oceans—not just those of the United States. Currently, if a tanker were to break apart off the fragile coast of Antarctica, that pristine area would have no one to come to the rescue. As a Nation which is responsible for a large share of the oil tanker traffic, it is our duty to enter these international agreements to protect the Earth. I hope the majority leader will promptly schedule consideration of the treaties, as well as legislation needed to implement them.

In what can only be termed ironic, the conferees also agreed at the last minute to include a moratorium on exploration for natural gas in an area which is over 30 miles off the coast of North Carolina. Without hearings, without notice, the conferees took an action which is a set back for the environment for two reasons. First, this lease is expected to contain natural gas, not crude oil. Everyone knows that natural gas is a clean burning fuel which would reduce emissions and help us attain the tough new standards we recently approved in the Clean Air Act. We will not achieve those standards without an adequate supply of natural gas. Second, there has not been a spill from an OCS drilling operation in the United States since the 1960's—almost 30 years ago. Strict regulation of OCS activities have reduced the risk of blowouts to be almost negligible. Oilspills result from transporting crude oil and petroleum products in tankers and barges, not from drilling, so we should encourage OCS activity in nonsensitive areas.

Mr. President, even with these two major environmental shortfalls, I support this conference report and urge its adoption.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate passage of the conference report on H.R. 1465, the Oil Pollution Act of 1990.

The Senate initially passed comprehensive oilspill legislation, S. 686, last year on August 3. In October 1989, the House responded and passed H.R. 1465. The conference report we are considering today represents a compromise between the Senate bill, S. 686, the Oil Pollution Liability and Compensation Act of 1989, and H.R. 1465, the Oil Pollution Act of 1990.

This conference agreement, among other things, will impose new requirements on the operations of oil tankers in the United States, enhance the authority of the Coast Guard to regulate effectively the conduct of merchant marine personnel, put the Coast Guard in charge of any oilspill that poses a significant threat to the environment, and require Coast Guard-approved contingency plans for all oil tankers and facilities.

The legislation before us today takes many features of S. 686 and incorporates them into H.R. 1465 and leaves intact other sections of S. 686 and H.R. 1465. Notable provisions include the requirement that most oil tankers have double hulls by the year 2010. This requirement includes concepts that were contained in both the House and Senate bills. The legislation also contains strict alcohol and drug testing provisions for seamen, vessel navigation requirements, and other operational and structural requirements for vessels that are transporting oil.

We held a number of hearings in the Commerce Committee on the *Exxon Valdez* spill. The legislation resulting from those hearings was S. 1461, the Oil Tanker Navigation Safety Act of 1989. This legislation was reported from the Commerce Committee and joined with Senator MITCHELL's bill, S. 686, which passed last year. After long and intense negotiations with the House, a compromise was reached that contains the best provisions of the bills. I believe this compromise is fair and goes a long way in preventing the type of accident that occurred involving the *Exxon Valdez.*

Mr. President, it is clear that the problems that surfaced following the *Exxon Valdez* accident were not confined to any one issue. Thus, the need is inescapable for a comprehensive bill, one that lessens the risk of future spills, improves the ability of industry and government to respond to a spill, and clarifies the liability regime and ensures a compensation system. I believe that if the Senate approves this conference report, we will have met that need and produced a measure that is truly comprehensive in scope.

Thanks to the efforts of Senator MITCHELL and others on the Environment Committee, and to Chairman JONES of the House Merchant Marine and Fisheries Committee, we have been able to craft legislation that combines the best features of both the Senate and House bills, and one that will provide a rational and comprehensive approach to oilspill prevention and liability. I commend this conference report to my colleagues and urge them to support it.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—99

Adams	Armstrong	Bentsen
Akaka	Baucus	Biden

Bingaman	Gorton	Metzenbaum
Bond	Graham	Mikulski
Boschwitz	Gramm	Mitchell
Bradley	Grassley	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatch	Nickles
Bumpers	Hatfield	Nunn
Burdick	Heflin	Packwood
Burns	Heinz	Pell
Byrd	Helms	Pressler
Chafee	Hollings	Pryor
Coats	Humphrey	Reid
Cochran	Inouye	Riegle
Cohen	Jeffords	Robb
Conrad	Johnston	Rockefeller
Cranston	Kassebaum	Roth
D'Amato	Kasten	Rudman
Danforth	Kennedy	Sanford
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Sasser
Dixon	Kohl	Shelby
Dodd	Lautenberg	Simon
Dole	Leahy	Simpson
Domenici	Levin	Specter
Durenberger	Lieberman	Stevens
Exon	Lott	Symms
Ford	Lugar	Thurmond
Fowler	Mack	Wallop
Garn	McCain	Warner
Glenn	McClure	Wilson
Gore	McConnell	Wirth

NAYS—0

NOT VOTING—1

Boren

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to recognize the vote by which the conference report was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask that the Senator from New Jersey be recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, we have just passed an enormously significant piece of legislation that will dramatically improve our environment. As a Senator that comes from a coastal State, it has enormous, important implications for improving the environment in New Jersey and other coastal States.

I would like to take this opportunity to salute the distinguished Senator from Montana for his leadership on this issue. He has been persistent and tenacious. He comes from a State that does not have oceans on its boundaries, but he has recognized that oilspills are a national problem and he has provided leadership that has brought us to this point where we have enacted this significant piece of legislation. I personally would like to salute him for his leadership.

Mr. President, last year the attention of the Nation was riveted by the horrible sight of oil defiling Alaska's shores after the *Exxon Valdez* ran aground on Bligh Reef. Although the spill was and remains an enviornmental disaster, it had a political impact that today helped pass much needed and long overdue legislation on oil pollution.

Since January, a total of over 1.2 million gallons of oil have been spilled in New Jersey waterways. The waters of the Kill van Kull and the Arthur Kill, adjacent waterways in the Port of New York and New Jersey, have repeatedly been fouled by oilspills. Three of them emptied over 100,000 gallons of oil into our waters. Shore and wetland areas have been oiled, partially cleaned, and oiled again. Migratory shore birds, whose primary food was threatened by spills in January, were themselves oiled in June. Tar balls washed up on New Jersey beaches during the peak summer beach season.

That 1.2 million gallons provides vivid evidence that business as usual cannot protect marine, estuarine and coastal areas. The Port of New York and New Jersey handles over 4,000 tanker and petroleum barge arrivals and over 4,000 departures annually. More than 10 million tons of crude oil and 100 million tons of other petroleum products flow through the port annually. With traffic so heavy, and the consequences of an accident so severe, only the most stringent standards of care are acceptable. By passing this legislation, we have made it clear to oil transporters that they will be held fully responsible for their accidents. We have taken a major step toward reducing the chances of similar accidents in the future.

I am glad that at long last, oil will be carried in double hulled vessels in American waters. A single, vulnerable skin of steel has repeatedly been shown to be unable to protect marine waters from pollution. The objections of the oil industry notwithstanding, this measure is long overdue. Tankers carrying other hazardous liquids have used double hulls for years. Double hulls are effective and safe.

I am particularly pleased that the bill incorporates a provision to accomplish what I sought when I introduced "The Oil Transfer Liability Act" earlier this year. This provision ensures that all parties can be held accountable for their actions if a spill occurs during oil transfer operations, regardless of the point of discharge of oil. Many spills occur in New Jersey waters each year during the transfer of oil to or from a barge or tanker. Although the majority are small spills, in one accident this spring, over 27,000 gallons of oil were released when pumped into a barge with an easily visible hole. The provisions incorporated in the final bill will reduce the chance of spills in the future, and will ensure that everyone involved in an accident can and will be held accountable for their actions and inactions.

The conference report includes the following on section 1009 of the bill:

The conferees note that this section might come into play in an instance where more than one party is involved with a spill. For example, a spill may occur when oil is being transferred between a vessel and an onshore facility. If the discharge comes from the vessel, it is the vessel that will be the responsible party for purposes of the conference substitute. Nevertheless, if action or omission of the onshore facility contributed to the discharge, the operation of this section or section 1015 on subrogation could result in the facility being held accountable financially in part or in whole.

In short, anyone involved in an oil transfer can be held liable if they contributed to the spill.

Mr. President, I am very pleased to see this legislation get final approval from the Senate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, allow me to join in the remarks of the distinguished Senator from New Jersey and commend the Senator from Montana and the distinguished majority leader as well for their fine efforts.

(The further remarks of Mr. DODD and Mr. LEAHY pertaining to the introduction of S. 2954 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as one of the conferees on the oilspill legislation, may I offer an altogether affirmative repetition of the praise we have heard for the Senator from Montana today. This was not an easy conference. We had some 70 Members from the House and only a handful of us. The Senator from Montana led us brilliantly, and, in the course of doing so, Mr. President, did something of large importance to our Federal System and to the majority leader. We did not preempt State law in the handling of these matters.

Mr. President, we have a good bill. I think we are now prepared to deal with what has become an unfortunately common environmental hazard.

Of particular importance to me is that the Great Lakes will now have the benefit of increased attention. This measure requires that every Coast Guard district now have personnel and equipment for spill cleanup—10 new district response groups, including one based on the Great Lakes. The bill also recognizes the dangers of the frequent spills in New York Harbor and the particular hazards of transporting oil through its waterways. We will have a 4-year, $3 million oil pollution minimization project to be conducted by the Coast Guard with the Port Authority of New York and New Jersey. The project will work to improve vessel and pipeline safety to minimize future spills.

RESPOND TO HUSSEIN'S VILLAINY

Mr. McCAIN. Mr. President, just yesterday I met with some of my colleagues in the Senate to discuss aid to El Salvador, and I was told with some disdain, "Don't you know the cold war is over?" Well, the cold war may be over, but we still live in a world of wars. It is still a world filled with peril for American security interests and American values.

It is a world where the ambitions of overarmed butchers like Saddam Hussein can disrupt stable structures of international relations; where regional killers like Saddam Hussein can threaten the global economy; where in an age of democratic resurgence, a cynical tyrant like Saddam Hussein can make a mockery of notions like territorial integrity and human rights. We live in a world where we can only protect our friends, ourselves and our values against men like Saddam Hussein with strong, forceful action and military preparedness.

With a sneering, Hitler-like contempt for national sovereignty, peaceful relations between states and the decent opinion of mankind, Saddam Hussein launched his invasion of Kuwait at night. How fitting that Hussein's latest act of villainy began in the dark. It was an act of unsurpassed dishonor and it should have begun at night. Thieves and killers always prefer to unleash their treachery in darkness. And even in the long and sordid history of aggression in this violent century, this is an unusual example of treachery.

Iraq's treachery is unconstrained by anything remotely similar to the sensibilities of civilized people. Like Hitler, Hussein takes pride in cultivating the brutal aspects of human nature. There is not even room in his base psychology for gratitude for the past sources of support.

When Iraq's very survival was threatened by Iran, Kuwait gave Hussein billions of dollars. Despite enormous risks for its own security, Kuwait served as a major port for Iraq. Kuwait remained a steadfast ally of Iraq, all the while enduring terrorism, air raids, and missile attacks. On behalf of Iraq, Kuwait stood up to Iran and Iran's attacks on Kuwaiti tankers.

How has Hussein repaid Kuwait for their exceptional support in Iraq's great time of need? Iraq has charged Kuwait with border violations. There was no border violations until last night. The border between Iraq and Kuwait was agreed to by Iraq many years ago.

Iraq has accused Kuwait of drawing oil from Rumalia oil fields. Kuwait did draw oil from the field, from an area that is sovereign Kuwaiti territory. Neither was Kuwait drawing unfair amounts of oil from the field. In deference to Iraqi concerns, Kuwait agreed weeks ago to reduce the amount it draws.

Iraq has accused Kuwait of exceeding OPEC production quotas. So what. Iraq routinely exceeds those quotas whenever it is convenient to Iraq. Kuwait has hardly produced enough oil to significantly drive down oil prices. Yet, once again, it acquiesced to Iraqi threats and agreed to reduce its oil production weeks ago.

Finally, Iraq has grasped at the spurious rationale that has long served the territorial ambitions and ruthless opportunism of men like Saddam Hussein—the fictitious rescue of compatriots. Once again, Hussein borrows from the annals of Nazi treachery who used the excuse to blitzkrieg through Europe. He has accused the Kuwaits of persecuting a Baathist political movement inside their country. Hussein has sworn to come to the aid of his fellow Baathists. Mr. President, there is no such political movement of any consequence inside Kuwait. The loudest voice for political change in Kuwait are Kuwaits who oppose cooperating with Iraq.

Hussein knows this. But it is a matter of indifference to him. His ambitions, his aggression, his cruelty are unrestrained by truth and facts. Simply put, he means to have whatever he desires. In service to his appetities, he will use poison gas to murder his own people if necessary. He will kill anyone, he will wreck civilizations, he will throw the entire region into conflict if it serves his purposes. That is why we see tanks, fighters, and armed helicopters firing into the streets of unarmed Kuwait City. That is why we see Iraqi artillery pounding Kuwait.

He has threatened to turn Kuwait into a graveyard. Mr. President, perhaps its time we took Hussein at his word.

There are no border disputes to resolve here. There is nothing to arbitrate. There is no shred of decency Iraq can hide behind. Iraq has seized a sovereign nation and holds it captive, plain and simply. The question is not "Who is guilty?" That is apparent to the entire world. The question is "How do we punish the guilty?"

For all his bluster, Hussein leads a nation that he has driven deeply into debt. Iraq has exploitable weaknesses. If we exert the moral leadership that President Bush has already called for, and if other nations have the courage to follow, we can bring immense forces to bear on Hussein.

First, we should call for an immediate halt to the shipment to Iraq of any kind of military equipment. We should seek immediate cooperation from France, China, and the Soviet Union in denying Iraq the means to further advance its ambitions. We should take similar action to close Iraq off to dual use equipment, and adopt legislation that would permanently close American markets to any company that violated this sanction.

Second, we should build on the action President Bush has taken in freezing Iraqi and Kuwaiti assets. We should close American markets to any company that banks with Iraq, or loans Iraq money, or lets Iraq reschedule its debt repayment. Iraq is dependent on international loans. This is one of its most critical vulnerabilities. Let us exploit it fully.

Third, we should seek broader economic sanctions that penalize any nation that trades with Iraq. Let us give such nations a choice between Iraqi and American markets.

Fourth, we should immediately offer military support to Saudi Arabia and the other southern Gulf States. We should deploy strong carrier forces, build up bomber forces at Diego Garcia, and deploy ships with long-range cruise missiles. If the Saudis so request it, we should deploy air units to their country, and rush deliveries of military equipment.

Fifth, let us immediately strengthen Israel, and fully support its Arrow project to defend itself from the missiles and chemical weapons that Hussein has already threatened to use against Israel. Saddam Hussein has shown us the extent of his treachery. It very well may include triggering a major Middle Eastern war.

Sixth, we must strengthen and support our own SDI Program to defend ourselves from reckless aggressors like Hussein who are rapidly developing the means to threaten us.

Finally, we should urgently pass the pending legislation to block the proliferation of long-range missiles and chemical and biological weapons—weapons this butcher has shown he is all too happy to use.

We must not pretend that in the twilight of the cold war we have reached the end of history. We have survived many grave threats. But we will always be compelled to address others. We have long been warned that those who forget history are condemned to repeat it. In Saddam Hussein, we detect the stench of Hitler and all the aggressors and murderers that have come before him. Like Hitler, he personifies the brutal impulses of human nature. He provides fresh evidence, as if any were needed, of man's inhumanity to man. Like Hitler, the civilized world needs to deal with him. The sooner the better.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2884, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Warner amendment No. 2482, expressing the sense of the Congress regarding greater utilization of reserve components of the armed forces.

(2) Nunn amendment No. 2483 (to Amendment No. 2482), in the nature of a substitute.

(3) Warner amendment No. 2484, to provide for an additional restriction on the obligation of funds for the B-2 aircraft program.

(4) Nunn amendment No. 2485 (to Amendment No. 2484), to express the sense of the Congress regarding the B-2 aircraft program and to add additional restrictions on the obligation of funds for such program.

ARMED SERVICES COMMITTEE REPORT ON S. 2887

Mr. NUNN. Mr. President, there are two items of report language relating to S. 2884, the National Defense Authorization Act for fiscal year 1991 which were approved by the committee but which were inadvertently omitted from the printed version of Senate Report 101-384, the committee report accompanying this bill.

The first item of report language involves "Plastic Ammunition and Plastic Ammunition Packaging Containers."

The second item of report language involves "Procurements of Critical and Strategic Materials for the National Defense Stockpile."

I ask unanimous consent that both of these items of committee report language be printed in the RECORD at this point.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

PLASTIC AMMUNITION AND PLASTIC AMMUNITION PACKAGING CONTAINERS

The committee continues to believe that small-calibar plastic training ammunition offers a cost-effective potential method to expand the number of training ranges that can be used for realistic training, particularly as the Defense Department places greater emphasis on National Guard and Reserve units and the Bradley Fighting Vehicle with the 25 mm cannon is distributed in greater numbers to the Reserve Components. The Army is directed to carefully evaluate opportunities to expand the use of plastic training ammunition, particularly in those cases were items can be procured with little or no development cost.

The Committee also supports the evaluation of non-developmental item (NDI) NATO standard plastic ammunition containers. The Committee believes these plastic packaging containers have the potential for considerable savings in weight, decreased damage, ease of handling and reissue as well as cost.

The Committee invites the Department to submit reprogramming proposals for plastic training ammunition and plastic ammunition containers if evaluation of these products demonstrates their utility.

PROCUREMENT OF CRITICAL AND STRATEGIC MATERIALS FOR THE NATIONAL DEFENSE STOCKPILE.

The Committee is concerned over recent actions by the managers of the National Defense Stockpile to procure materials for the Stockpile under procedures which could have excluded U.S. producers from competing for the procurement. This action is contrary to the intent of section 3312 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, which authorized the President to encourage the development of domestic sources of stockpile materials. The Committee directs the managers of the National Defense Stockpile to insure that U.S.-produced strategic and critical materials are not excluded from procurements for the National Defense Stockpile where there is a U.S.-produced material which is equivalent to foreign-producted material.

Mr. McCAIN. Mr. President, there are several aspects of the fiscal year 1991 Defense Authorization Act that I am proud of. I believe that it does an outstanding job of dealing with our military and civilian personnel in a time of major force cuts, that it lays out manpower plans that will lead us toward an effective new total force concept, and that it is responsible and compassionate in dealing with the men and women who will have to change their careers and their lives because of the coming cuts in defense spending.

I have been proud to work with JOHN GLENN in developing these plans and provisions, and I feel that the manpower portions of the act represent the kind of bipartisan cooperation that I wish characterized the entire bill.

THE NEED FOR A TRANSITION PLAN TO PROTECT THOSE WHO MUST MUST LEAVE MILITARY SERVICE

I take particular pride in the fact that the bill contains the transition plan that I developed with the help of the military coalition to protect the men and women who now will be forced to leave military service. I remember the aftermath of Vietnam all too well. I remember the trauma and neglect. I remember how expedient it was to forget those who served and sacrificed for their country.

The transition plan in the current act ensures that we will not repeat that neglect:

It ensures that both officers and enlisted personnel will receive separation pay proportionate to their years of serve in lieu of the pension they lose;

It ensures that they receive the same unemployment rights and pay as their civilian counterparts;

It ensures that they have help in starting a new career in the form of suitable counseling, and the option of continuing their education;

It ensures that our men and women, and their families, retain adequate medical insurance as they seek out new careers;

It ensures that they are not left at the doorstep of some military base and can relocate where new careers are possible; and

It emphasizes a transition package that allows the men and women in the military, and their families, to make the kind of clean break with the past that is vital to an effective transition to civilian life, and to preventing our military bases from becoming awkward halfway houses It does not tie transition to the use of military medical facilities, the use of exchanges and commissaries, or the use of military housing.

We cannot change our strategy, or cut forces, without proper regard for the volunteers that helped win the cold war. Long after the decisions we have taken regarding weapons systems are forgotten, people will remember how we treated our military personnel. I would like to thank Senator GLENN for his support and help in transforming this transition plan inot law.

THE NEED FOR CHANGES IN DEFENSE STRATEGY AS WELL AS CHANGES IN DEFENSE SPENDING

At the same time, we must change our strategy. We are not just discussing another Defense Authorization Act. Hidden away within the text of this bill are a series of funding decisions that reflect the most significant changes in our strategic positions since the end of World War II.

The cold war is not yet over, and the West must still meet the challenge posed by a growing Soviet nuclear threat and massive Soviet conventional forces. Nevertheless, the cold war does grow warmer every day, and our strategic priorities have already changed.

We must shift from a Europe and Soviet-oriented strategy and force posture to a global power projection strategy which emphasizes the continuing risks we face in Asia and the Third World. Europe must become only one of several strategic focuses, and we must begin to make fundamental changes in our strategy, our force posture, and the roles and missions of each of our services.

The fiscal year 1991 Defense Authorization Act takes some important step in this direction. It calls for the kind of improved strategic focus, planning, and budgeting, that is essential if we are to cut the defense budget, restructure our remaining forces, and preserve our national strategy.

It contains important provisions that will help us change our strategy and restructure our forces efficiently—provisions that I am proud to have helped to develop:

These provisions require that the Department of Defense submit its budget in mission form and provide an explanation of funding and capabili-

ties the Department is seeking in each mission area over the next 5 years.

They call for greatly improved planning to preserve our industrial base.

They call for an expansion of the annual joint military net assessment to include a fundamental review of our strategic modernization plans, targeting, and arms control strategy.

Equally important, they address the need to improve our planning of such critical power projection capabilities as our future carrier force and strategic mobility.

THE NEED FOR A NEW STRATEGIC FOCUS ON POWER PROJECTION

The fiscal year 1991 Defense Authorization Act is, however, only a prelude to shaping the new strategy, forces, and levels of defense spending we will need in the 1990's. There are many areas where it is not specific enough, or sets the wrong priorities.

The act talks a great deal about strategic, but it lacks strategic focus. Our future defense programs, budgets, and strategy should focus on global power projection for low- to medium-intensity wars, and shift decisively away from our past focus on high intensity conflict in Europe.

This shift reflects both the rapidly changing realities in the U.S.S.R. and Eastern Europe, and the continuing instability and threats in the Third World and Asia. Such an emphasis of power projection reflects the fact that less than 6 percent of our roughly 240 uses of military force since the end of World War II have involved direct confrontation with the U.S.S.R.

We need a far clearer focus on preserving our combat ready power projection forces and forward deployed forces. It is forward presence and combat ready capability that deters, that helps limit conflicts, and meets most of our requirements. If we do need to build up forces for more than low- or medium-intensity conflicts, we will still need forces that are largely combat ready and which are tailored for global missions.

The key power projection forces we need to fund and keep fully ready include our carrier forces, the Marine Corps, units like the Army's XVIIIth Corps. the tactical and conventional bomber forces of the Air Force, and the necessary strategic mobility. I fully recognize that such forces are not perfect and are not invulnerable, but no forces ever are. These forces have proven their effectiveness again and again, and their investment costs are already fully funded.

While it is fine to talk about radical changes and cuts in such power projection forces, there are parts of the current act that suggests that the end result of any radical changes is more likely to be precipitous trade-downs and force cuts than effective tradeoffs. We cannot afford to make major cuts in the capabilities we need most.

RESTRUCTURING OUR FORCES FOR EUROPE

Second, we need to redefine our role in the defense of Europe. While we must focus on a power projection strategy, we will need to retain a presence in Europe, and avoid any major force cuts until we negotiate CFE. The act now has provisions that virtually force the withdrawal of 50,000 troops from Europe in fiscal year 1991. This is a time for arms control and building a new security structure in Europe, not a time to rush into neoisolationism.

There will also still be a Europe and a Soviet threat after CFE. We should maintain at least a small corps and several tactical air wings after CFE. Further, we must be sure that our combat ready power projection forces can be deployed to Europe, as well as other regions of the world.

We can, however, make major cuts in those Active and Reserve Forces, and lift and sustainability requirements, whose main purpose is to fight a major conventional war in Europe. These forces now constitute at least 25 percent of our conventional force structure. They are already hollow forces that we cannot properly make ready, deploy, equip, or sustain in less than several months to several years.

Finally, we need to accept the fact that our European allies are not going to fund anything like the conventional force mix they now field, but that they must still assume a far greater responsibility for their own defense. Concepts such as structuring large number of heavy reinforcements for Europe are outdated and wasteful.

RESTRUCTURING OUR RESERVES

This is why we need to change the roles and missions of our Reserve and National Guard Forces as well as other Active Forces. The idea that we should emerge from CFE with enough Active and Reserve reinforcements in the United States to match a Soviet buildup, or fix the conventional balance is simply out of date. There no longer seems to be a threat that justifies such an effort, and it is clear that we are never going to fund the required forces and lift.

This is also why we should remove the portions of the act that freeze the structure of our Reserve forces, and emphasize creating effectiveness Reserve forces, rather than simply rushing to create more Reserves. The current provisions in the act that call for such a freeze may protect a few units in a few States from disbandment, but we need strategy and purpose—not parochial pork.

We owe the men and women in the National Guard and Reserves a role and mission the country realy needs, and enough funds to provide for the proper training, equipment, and sustainability. We need to restructure our existing Reserve forces to support global power projection, and provide forces tailored to tomorrow's contingency needs, not yesterday's.

NUCLEAR FORCES AND ARMS CONTROL

The weakest single element of the present fiscal year 1991 Defense Authorization Act is its failure to come to grips with setting clear priorities for strategic forces, arms control, and strategic defense.

We need far clearer goals for reshaping our nuclear force posture. Our strategy should include both substantial modernization of our strategic forces, and focus on a clear concept for START 2 or START "1.5" that allows us to trade quality for quantity. We need both an affordable and a survivable force.

The Soviet Union may be far less of a political threat than in the past, but it so far seems committed to an extraordinary degree of nuclear modernization—if only to retain its last real credential as a superpower.

The U.S.S.R. has built roughly twice as many ICBM's as the United States since 1975. There are now 1,400 Soviet ICBM's deployed to roughly two dozen locations in the Soviet Union.

Last year the Soviet Union produced 140 new ICBM's, the United States produced 12 Peacekeepers. This is reinforcing a Soviet advantage in megatonnage that has exceeded 2:1 even since 1975, and a more than 2:1 lead in reentry vehicles.

At least one new warhead variant of the SS-18 Heavy ICBM is still being deployed that is capable of carrying 10 warheads and has a range of 5,940 miles. The Air Force estimates that these improvements could allow the SS-18 force to retain its present hard target kill capability even if it is cut from 308 to 154 deployed missiles under START.

The U.S.S.R. has deployed at least 20 rail-carried versions of the fully MIRV'd 10 warhead SS-24 ICBM on at least 6 trains, and there are least 50 more SS-24 missiles deployed in former SS-19 silos. The U.S.S.R. has deployed 220 mobile single warhead, SS-25 missiles. This gives the U.S.S.R. more than 240 mobile missiles, with nearly 100 becoming operational in 1989 alone. At current rates, the United States will not have a single mobile ICBM until after 1997.

The Soviet Union has increased its number of SLBM warheads from 750 in 1975 to 3,600 in 1989. It continues to produce two SSBN's per year; the United States is debating the termination of the Trident Program. It also continues to make major improvements in the capability of its SLBM's.

The Soviet Union continues to phase out the older SS-N-6 and SS-N-17 SLBM's on its *Yankee*-class submarines. It is replacing them with Delta III's and Delta IV's that can hit U.S. targets without warning from home waters. At the current rate of improve-

ment, the Soviet SSBN force will be more lethal in the late 1990's even if its size is cut 25 to 50 percent.

The U.S.S.R. has deployed six *Typhoon*-class submarines, each of which is 30 percent larger than the U.S. *Ohio*-class submarine. The submarines are still under construction and carry 20 SS-N-20 missiles per submarine, each of which has a range of 4,500 miles, and six to ten warheads.

The U.S.S.R. is developing two nuclear armed cruise missiles. One is the subsonic SS-N-21, deployed aboard modified *Yankee* NOTCH submarines. The other is the supersonic SS-NX-24, which is likely to be deployed on specially reconfigured Yankee submarines.

Last year, the Soviet Union produced over 40 strategic bombers, the United States produced one B-2. The U.S.S.R. has built over twice as many strategic and long range theater bombers as the United States since 1960.

The Bear-H appears to be reaching final deployment levels, and the Blackjack is in active production, although the ultimate number will probably be smaller than the number the U.S.S.R. once planned. The Blackjack is a Mach-2 bomber with a range of 7,900 miles.

The Soviets have two-nuclear armed cruise missiles designed for use on these bombers. The subsonic AS-15 ALCM has a range of 3,000 kilometers, and is carried by both planes. The AS-X-19 is currently undergoing testing for deployment onthe Bear H.

These Soviet offensive forces are backed strategic air defenses that the United States does not attempt to match.

Approximately 20 percent of the 7,000 surface-to-air missiles in Soviet forces are now SA-10's—a missile which can engage several targets simultanously, and which may have a limited antimissile capability. The Soviet Union continues to deploy more SA-10's at a steady rate. The United States has no national surface-to-air missile defenses.

The Soviets still have some 2,100 fighter interceptors dedicated to strategic air defense. These are rapidly being equipped with fourth generation look down/shoot down aircraft like the SU-27 and Mig-31, and the U.S.S.R. has deployed its own version of the AWACS—the IL-76 Mainstay.

By 1999, all these aircraft will be forth generation or even newer types. In contrast, the United States has a force of less than 300 dedicated fighter interceptors.

The U.S.S.R. has recently deployed a totally new ABM system around Moscow with the maximum of 100 missile launchers permitted by the ABM Treaty. The United States has no ABM's deployed.

We do not need to match every aspect of Soviet modernization, but we cannot ignore it. We must continue modernization efforts of our own. At a minimum, we need to build a force of 18 Trident SSBN's, deploy at least one modern mobile ICBM, and focus on bombers with cruise missile capability, rather than advanced penetrating capabilities. We need to fund programs like MILSTAR, which are necessary to make smaller forces more survivable and more effective as retaliatory weapons.

THE LINK BETWEEN ARMS CONTROL AND STRATEGIC MODERNIZATION

At the same time, we need to aggressively pursue arms control in a form that is closely linked to strategic modernization. We do not need more lethal forces, but we do need to be able to simultaneously reduce our forces and create a more survivable force mix. We need to create post-START forces that are less dependent on early escalation and launch under attack.

Our goal should be to emerge from each successive step in arms control negotiations with forces that are survivable and flexible enough to strengthen deterrence. We must simultaneously reduce the forces on both sides that create an incentive for first strikes, an escalation of tension, or dangerous behavior in a crisis.

By focusing on reduced, but modernized and less vulnerable nuclear forces, we can largely eliminate many land-based nuclear systems. We cannot, however, ignore the fact that we face a new threat from weapons of mass destruction. Proliferation is no longer a risk, but a reality.

Our present arms control efforts necessarily focus on START and CFE, but we now face a very real risk of chemical and biological warfare in many parts of the Third World. We must do what we can to limit and stabilize the ongoing nuclear efforts of many Third World nations.

THE NEED FOR A STRATEGIC DEFENSE OPTION

We also need to pay more attention to the need for effective strategic defense. The fiscal year 1991 Defense Authorization Act makes yet another set of damaging cuts in the funding for SDI, and there are potential amendments to the act that could make that situation far worse.

We need to recognize that strategic defense still retains its importance, in spite of glasnost:

Strategic defense is still a critical option in meeting the Soviet nuclear threat, as well as the risk of a world in which nations like North Korea and Iraq are nuclear powers.

It is still a powerful lever that will help lead the U.S.S.R. to end the nuclear arms race in the way it seems to be ending the arms race in Europe.

It is still a powerful lever in persuading the U.S.S.R. to accept START and follow-on arms agreements.

It is still a better alternative than more offensive nuclear weapons.

It is still a way of guaranteeing our security against some sudden reversal in Soviet behavior.

Strategic defense is also our best way of reacting to what is becoming a nuclear armed world. As the Israeli Arrow project demonstrates, strategic defense offers a way of protecting our friends and allies against nuclear threats, and chemical and biological threats as well. At the same time, it offers us a way of protecting the United States against the hostile states that may be able to strike us in the future, and where the threat of retaliation may be far less effective than it has been in dealing with the rational and conservative leadership of the Soviet Union.

We may not face such threats from the Third World today, but no one can deny that we are likely to face them tomorrow. It does not take great vision to imagine what may happen if a leader like Saddam Hussein, who has threatened to "let our fire eat half of Israel" and to "retaliate for days and weeks and years" is able to equip even his existing missile boosters with nuclear warheads.

It does not take great vision to imagine the conduct of a nuclear armed Qadhafi, a man who has already threatened the United States with "our special means, the right to actually practice terrorism against the American presence everywhere."

We should not cut a $4.5 billion program to $3.57 billion under such circumstances. We also should not accept amendments to the surviving parts of the problem that would weaken it further.

Senator BINGAMAN and Senator SHELBY have announced that they will bring forward an amendment to the fiscal year 1991 Defense Authorization Act that will place funding ceilings on carefully selected SDI programs. The result of passing this amendment would be to twist SDI from a vital national program into one that focused on ground-based and long-term technologies. By a strange coincidence, this would ensure that SDI will suddently become a subsidy to those programs that are located in New Mexico and Alabama.

President Bush has stated that he will veto the fiscal year 1991 Defense Authorization Act if this amendment is passed. He has no other choice. The proposed amendment goes beyond micromanagement, and would deprive the program of its ability to explore critical space borne options like Brilliant Pebbles. While some cuts in President Bush's original budget request may be acceptable, the President cannot accept an amendment that would restructure all of SDI for the benefit of two states, and ensure that the President cannot make an informed decision on the architecture

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and deployment of an SDI system by 1993.

If we are to have a future, we must plan for that future. If we are to have national security, we must pay for it. We cannot let the entire Strategic Defense Initiative become an arena for special interest funding, and we cannot afford to let it be so underfunded that it becomes a hollow shell.

THE NEED TO USE OUR REMAINING DEFENSE DOLLARS EFFECTIVELY

I believe that we can provide a major peace dividend to the taxpayer but only if we pursue these strategicy priorities, if the Soviet threat continues to diminish, and if we can seal the reduction in the Soviet and Warsaw Pact threat with START and CFE agreements.

We may well be able to cut our defense budget by as much as 25 percent or more over the next 5 to 6 years, and substantially reduce defense spending as a burden on the total Federal budget and gross national product.

We cannot have effective forces, or an effective strategy, however, if we do not recognize that there is a limit to how far we can cut defense spending. We also have to recognize that we need to concentrate on the true mission of our military forces, which is to preserve national security, and that we have no money to waste on parochial interests and diversions.

If freezing the force structure of our reserves and National Guard is an example of such parochial interests, asking the Department of Defense to spend $200 million to help protect the environment is an example of such diversions.

There may be a case for reducing defense spending and spending more on the environment. There is certainly a need to fund full compliance by the Departments of Defense and Engery with current environmental laws and regulations. There is a hint of desperation, however, in trying to green the Department of Defense. The threat to the environment is not the threat the Department of Defense should plan for in the 1990's.

We already have real experts on the environment in other agencies and these agencies have very real and underfunded needs. We should not drag the Department of Defense into a mission for which it is poorly suited, and where there are no clear program goals, and no clear measures of effectiveness.

THE NEED TO CUT MILITARY SPENDING AND FORCES AT A PRUDENT PACE

We face other problems in the fiscal year 1991 Defense Authorization Act because so many individual fundings have been driven by budget pressures that have nothing to do with our Nation's long-term interests. We are now tailoring many critical aspects of our readiness to the number of dollars available, and we are adopting inefficient production rates, and we are shaving money off of program after program to find some way of reaching a lower spending target.

The present budget process—especially the combined pressures of the budget summit, the budget deficit, and Gramm-Rudman-Hollings—have often prevented us from focusing on our changing strategies needs or creating a stable and cost-effective path for cutting defense spending. Instead, we have had to focus on how we can cut outlays on manpower, operations and maintenance, and which big ticket programs can be cut so to produce quick big ticket savings.

We cannot continue to cut our forces on an annual basis as if there were no future, or to suit the day to day convenience of budget summits or short-term political considerations. We need to act on a clear plan for properly phased cuts in our forces. We must plan for defense spending which takes account of the continuing uncertainties regarding Soviet plans, and the need to preserve critical power projection capabilities.

We must not, for example let the desperate search for more budget savings drive us into other forms of neoisolationism like cut our forces in Korea before we see sufficient progress toward peace to allow us to do so. We also must avoid rushing to cut our forward deployed forces in the hope that we can somehow maintain security by retreating to some modern version of a "fortress America."

Above all, we cannot afford to rush forward to make cuts deeper than those already recommended in the fiscal year 1991 Defense Authorization Act. Nearly 150 years ago, Napoleon wrote that, "When a nation is at war, the presence of a deliberative body is injurious and often fatal." Today, he might say the same thing about a nation at peace and the way we are letting the budget process affect our national security.

It is one thing to cut defense outlays this year by 5 to 6 percent in real terms, and to cut defense authorization in anticipation of further long-term cuts. It is another to suddenly slash 9 to 13 percent from outlays in 1 year. We would destory our all-volunteer manpower base, our defense industrial base, and the operations and maintenance that shapes our readiness and sustainability.

In summary, we need to cut defense spending at a pace that allows us to finish START and CFE, to establish some new security structure in Europe, and to observe the path the U.S.S.R. will take long enough to be certain as to the future structure of its military capabilities. We need to cut defense spending at a pace that allows us to decide on a new strategy. We must cut at a pace that allows us to restructure the roles and missions of our forces, and our major procurement programs in a cost-effective manner.

UNANIMOUS-CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent there be 30 minutes of debate on the pending amendment, No. 2485, equally divided and controlled between Senators NUNN and WARNER or their designees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2485 TO AMENDMENT NO. 2484

The PRESIDING OFFICER. The pending question is the Nunn amendment, No. 2485, to the Warner amendment, No. 2484, time to be controlled 15 minutes per side. The Chair recognizes the Senator from Virginia [Mr. WARNER]

Mr. WARNER. Mr. President, last night the Senator from Virginia did not give his opening statement with respect to the bill, and I will continue to forebear because the leadership, as well as the managers of the bill, are anxious that the Senate move to consideration of this series of amendments relating to the B-2, and then, perhaps at a later point today, we can return to opening statements and other matters, as it relates to the bill.

Mr. President, first I will address the Senate regarding the pending amendment, the amendment in the first degree as laid down by the Senator from Virginia, and then the amendment in the second degree as laid down by the chairman, the Senator from Georgia.

The two Senators are anxious to place additional gates—that is a term that we have adopted—to ensure that the technical goals of this aircraft are met before we proceed to the additional production models; namely, two aircraft, as authorized in the bill.

The amendment in the first degree essentially States that all testing requirements, as laid down in the fiscal year 1990 authorization legislation, together with the testing requirements enumerated in the 1991 bill, the pending bill, will be certified to have been met, and then allow 30 days thereafter for such comment as others may wish to make before the Secretary of Defense can proceed to expend funds for the additional production models.

The amendment in the second degree goes into considerable detail as to the nature of these various gates. They are enumerated in the amendment. Members of the Senate, I am sure, have had an opportunity to look at them either prior to this morning's session or they can quickly refer to them in the pending amendment. I

shall address in some minor detail what is involved.

First is a recitation of the historical findings that the Congress has had with respect to this aircraft program: The importance of the program is the fact that we have invested $26.7 billion in it to date, funds have been approved for procurement of 15 aircraft through fiscal 1990 and their two aircraft additional production models in the legislation. Congress has established, in accordance with the fly-before-buy principle, a series of rigorous tests, most of which have not yet been completed, to assess the efficiency, effectiveness and cost of the B-2 aircraft.

Therefore, understandably, as we recite in the amendment, serious questions have been raised about the ability of the B-2 program to meet cost schedule performance and financial integrity requirements. Fiscal year 1991 will constitute the sixth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined. We all are aware of the budget problems, and therefore we feel, that is, the proponents of this amendment, that additional gates have to be put in to assure that for further expenditures there is an acceptable level of reason to believe that this aircraft will perform as designed.

In specific, we require that the panel of the Defense Science Board—that is the advisory board to the Secretary of Defense—and there is a subpanel known as Low Observables—conducts an independent review of the test data resulting from the early block 2 flight testing and submit to the Secretary of Defense a report on the results of that review together with the panel's findings and conclusions.

Second, the Director of Operational Tests and Evaluation—that is an important post in the Department of Defense, one that in many respects was created by the Congress of the United States—that individual submits to the Secretary of Defense the evaluation of the results of the block 2 flight testing to date and that is coupled with the findings and certifications of the Secretary of Defense to be made to the Congress.

So speaking on behalf of Senator NUNN, who momentarily is away from the floor, and myself, we feel that we have incorporated in this amendment such insurances as should be required by the Congress before we proceed to the new production models.

The B-2 debate, Mr. President, in the judgment of the Senator from Virginia, comes down to central question of capabilities of the present Soviet strategic forces and those capabilities that we can project into the reasonable future by virtue of our own intelligence and, indeed, their own pronouncements with respect to their modernization program and intentions. We are all very pleased that at the present time there is a lessening of tensions between the United States, the Western World, and the current Soviet leadership. But if we just take as an example we all awakened this morning to learn of another outbreak of armed conflict on this globe. There will be a debate as to whether or not we could have anticipated it, whether the intelligence could have given us forewarning, but nevertheless it did occur.

It points up I think very dramatically that when a nation such as Iraq has strong military capabilities and you couple that with the intention of using them, then conflict can occur. Here the Soviet Union—and it is indisputable—has capabilities second to none in terms of strategic forces: land, sea, and air. Current intentions hopefully are never to use those forces, but we could awaken tomorrow to a new Soviet leadership with new intentions, and therefore we cannot let our guard down as it respects the strategic element of our program.

This bomber—and there has been a great deal of debate on its mission, but I say to my colleagues that the mission of this bomber is to prevent any confrontation with respect to utilization of strategic forces. Its mission is to remain here in the United States in a readiness posture at any time to respond to the direction of the President of the United States in the President's efforts to deter the first use of any single nuclear weapon.

Mr. President, this weapon system is essential to the continuation of America's triad, the concept of strategic forces which has prevailed since the closing days of World War II, that concept which has maintained the peace in the world with respect to the usage of nuclear forces. It is a proven doctrine.

Should the B-2 not go forward as envisioned now by the President and the administration, then the triad begins to unwind and become less effective. Indeed, it could well end as a viable military concept. So I hope Senators will bear that in mind as we begin to enter this historic debate on the B-2 bomber.

There are many factors which I am certain will be brought up by the opponents to the program with respect to cost and the like, but bear in mind the mission of this bomber is to remain at an airstrip in the United States and deter the first use of any nuclear weapon by any adversary. That is its primary mission. It complicates enormously the Soviet planners' calculation should any Soviet leader ever call upon the military staff to advise him with respect to the risks and the chances of success of ever utilizing their strategic forces.

Mr. COHEN. Will the Senator yield for a question.

Mr. WARNER. Yes, of course.

Mr. COHEN. The Senator used the phrase fly-before-buy as it applies to the B-2. Am I correct that under the DOD authorization bill as approved by the committee, every penny requested for procurement funds is still included in the bill?

Mr. WARNER. So far as the Senator from Virginia understands, that is correct.

Mr. COHEN. With respect to fly-before-you-buy as it pertains to every other system that we considered, such as the A-12, the C-17, the SSN-21, MX rail garrison, and the advanced tactical fighter, the LH helicopter, and the V-22, am I not correct that the committee did not provide procurement funding for any of those systems because of the application of fly-before-buy as it pertains to them?

Mr. WARNER. If I could respond to the Senator, Senator NUNN and I in anticipation of the very problem that the Senator points out specifically designed this amendment, which is the pending business of the Senate, to answer that question. Namely, we have tried to incorporate in this amendment such insurance as we feel necessary to meet the fly-before-buy requirements, which doctrine is applied elsewhere in the bill.

Mr. COHEN. Could I also inquire as to whether out of the 13 additional restrictions on the obligation of funds for the B-2 aircraft, are not 10 of them identical to the provisions that were included in the DOD bill last year?

Mr. WARNER. I am not able to break down the exact numbers but roughly the Senator from Maine is correct. As I mentioned earlier in my statement, the amendment of the Senator from Virginia recites the 1990 as well as the 1991 criteria.

Mr. COHEN. So in essence there are three restrictions that have been imposed by the Senator from Virginia and the Senator from Georgia?

Mr. WARNER. Right.

Mr. COHEN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request, and I ask unanimous consent that the time consumed in this not be charged to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have previously asked unanimous consent limiting the time on this amend-

ment. I will restate that as part of a new, broader consent request.

I ask unanimous consent that there be 30 minutes of debate on the pending Nunn amendment No. 2485, equally divided and controlled between Senators NUNN and WARNER, or their designees; that once that time has been used or yielded back, the amendment and the underlying amendment No. 2484 be laid aside and that Senator COHEN be recognized to offer an amendment relating to the B-2 bomber on which there shall be 2 hours of debate in the usual form; that immediately after the Cohen amendment has been offered, Senator LEAHY be recognized to offer a perfecting amendment on the same subject on behalf of himself and Senator COHEN; that there be 2 hours for debate in the usual form on the Leahy perfecting amendment; that upon the completion of debate on the Leahy perfecting amendment, debate resume on the underlying Cohen amendment for 1 hour and 40 minutes, equally divided; that at the conclusion of that time for debate the Senate vote on or in relation to the Nunn amendment No. 2485, followed immediately by a vote on the Warner amendment No. 2484, as amended if amended, to be followed immediately by a vote on or in relation to the Leahy-Cohen perfecting amendment, and that upon the disposition of that amendment the Cohen first-degree amendment, as amended if amended, be debated for the remaining 20 minutes of the original 2-hour time limitation equally divided, at the conclusion of which there be a vote on or in relation to the Cohen first-degree amendment, and that no other amendments be in order to the Cohen first-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, I do not intend to, Mr. President, I would first like to commend the leader for trying to get some reasonable time agreement so we will not go on and on because whatever time is available this body seems to try to fill that time up. So I commend him for doing that.

Let me ask this question: How much time are we talking about total here? Are we talking about 4 hours on the Cohen and Leahy combined, and 30 minutes on the Nunn-Warner?

Mr. MITCHELL. Yes. A portion of that 30 minutes already having been consumed. We are talking about slightly over 4 hours, not counting votes.

Mr. LOTT. Understanding we will stack votes at the end? Did I discern that from what the leader was saying?

Mr. MITCHELL. There will be three votes stacked, following which there will be 20 minutes remaining of debate finally on the Cohen amendment, and then a vote thereafter.

Mr. LOTT. That certainly seems very fair. I commend him again for doing that.

As a member of the Armed Services Committee, I feel like this is a very important issue, like these other issues are, talking about real programs, real money. We need adequate time.

I would like to urge our colleagues here if it is possible, if they have statistics, information that does not have to be said, to submit it for the record and realize that the unused time may be yielded back. I hope the Senate will say what needs to be said and get on with the business at hand. I certainly plan to cooperate with the leader in trying to accomplish that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

Mr. WARNER. I thank the distinguished leader and the Republican leader. This was not an easy time agreement. I think we are well underway on this bill at this time.

At this point I now yield the floor.

I presume my distinguished colleague, the chairman of the subcommittee, is seeking the floor to address the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield myself whatever time I need of the 15 minutes on our side.

I shall take only a few minutes to highlight for the Members of the Senate the major strategic forces funding adjustments and policy decisions in the defense authorization bill.

Senator NUNN has eloquently discussed the guiding principle underlying the committee's action. So I will simply note how these were applied to the various strategic forces in comments that I make now and in comments that I will reserve for another time when more time will be allotted for discussion of this.

Before we conclude debate on the two amendments offered by the Senator from Virginia and the chairman of the committee, Senator NUNN, I would like to focus and salute them for their leadership in the structuring of these amendments that, in essence, are self-explanatory amendments, to give the Senate the full understanding of the work that has been done very diligently in the Armed Services Committee on this matter of the B-2.

I think it is critically important that we recognize that the B-2 is not just another bomber. I am afraid that the debate all too often has deteriorated to that point. If the B-2 were just another bomber, as was the B-1, then some of the opponents of the B-2 might have a case to make.

I would like to point out, Mr. President, that if the B-2 continues to jump through the various hoops that my subcommittee, the Strategic Subcommittee and the full Committee of the Armed Services have set for it—and I emphasize once again that we are not about to go out and procure 75 aircraft. I have read stories in the media time and time again that, in essence, we have approved the buying of 75 of these aircraft. That is not so. We have been very diligent in our proposition that we want this airplane to fly before we buy it.

I simply point out that this is not just another bomber. Best described, I think, Mr. President, is that we should look at this as a system rather than just an airplane. I say to you that if this system identified as the B-2, if that system performs the way it is supposed to perform—and the Armed Services Committee has been extremely diligent in not moving too quickly on this program, making it prove up every step along the way so we do not encounter some of the serious problems that we had with the B-1. We learned a good lesson this.

If this system does what I believe it should do, and what it is promised to do, then the key point to remember, Mr. President, is that the B-2 system would be a quantum leap forward in deterrence for the United States of America unlike any other system that has been introduced or acted upon probably of at least, in my view, since I have been a Member of the U.S. Senate for nearly 12 years now and have served on the Armed Services Committee at that time.

The question then that we are trying to address on this matter is whether or not the unique capabilities, the quantum leap forward that this would provide for the national security of the United States, should now be cut off at its knees or if we should pursue the cautious course that the Armed Services Committee has recommended.

Once again, I emphasize, Mr. President, one of the major principles that we have followed on this system is to fly before we buy, eliminating concurrency between the testing of developed systems and their production in quantity. In the strategic area, this is applied primarily and has been focused on primarily with regard to the B-2 systems as well as the rail garrison MX basing mode and others.

As Members are no doubt aware, Secretary Cheney's major aircraft review reduced the total buy of the B-2's from 132 to 75, and reduced the planned low rate production for fiscal year 1991 from 5 to 2 B-2's as a part of this system simply to allow for more testing, to better allow that system to

jump through the hoops of performance that we in the Armed Services Committee have set forth.

The committee concurs in that action and has funded only two B-2 aircraft. The committee carefully states in its report that it is taking no position in this bill on the ultimate size of the B-2 force. Just as has been the case this year, the B-2 will have to pass a significant series of milestones or hoops over the next year to remain alive.

These tests are spelled out in our bill and in the full performance systems maturity matrix that is incorporated into the B-2 system test and evaluation master plan.

Mr. President, let me close by saying that an unclassified version of that full performance systems maturity matrix has been provided to the Congress, and it details year-by-year milestones for production decisions, and thereby demonstrates better than any other fashion, I suggest, that we in the Armed Services Committee are on no pell mell approach to buy any specific number of B-2's.

An amendment to terminate the B-2 program will be offered during floor debate, as I understand it, so I will save further comment on the B-2 program until then.

I hope that the Members of the Senate will look very long and carefully at the amendment that has been offered by both the Senator from Virginia and chairman of the committee, Senator NUNN, and we attempt to point out in that explanatory document the way we in the Armed Services Committee have looked at this matter and how indeed carefully we are recommending that we continue extremely limited funding for this system and that if it proved out, it would indeed be a quantum leap forward in national security. I think we should remember that as we make our votes and make our comments.

I reserve the remainder of my time.

Mr. WARNER. Mr. President, I anticipate that the Republican leader will be coming to the floor shortly to address the Senate on this issue. As we await his arrival, I want to first commend the distinguished Senator from Nebraska for his work, not only in the B-2 program, but as the chairman of the Subcommittee on Strategic Forces. I was once privileged to have that position myself some years back, and I know the burden and adversity of the work, and the time and effort required. I wish to commend my distinguished colleague for his efforts there.

He has brought up, quite properly, that the legislation, as crafted—certainly the amendment pending before the Senate—does not in any way obligate the Senate to a full buyout, as recommended by the President and Secretary of Defense, of 75 aircraft. But I think it would be important to say that should the amendments, as we understand them, prevail for terminating this program in one way or another—we will soon get the details of those amendments—my rough calculations would be that the American taxpayers would be spending roughly $2.3 billion per copy for the 15 aircraft, assuming that is the line at which these amendments terminate production.

We must bear in mind the enormity of the investment costs to date in R&D. That is the most expensive part of this program, which really has been complicated, the design and work that has gone into the research and development bill.

My colleague from Maine addresses, quite appropriately, the question of the philosophy of the committee as it applied to fly-before-buy. He pointed to several programs in which we have, in a strict sense, begun to incorporate that doctrine. But the fact is that B-2 has flown, not once, twice, but several times, and it has passed its initial test. Now we are moving into that critical area of testing regarding stealth technology.

Mr. President, as we look to the future, America's advantages of the past; that is, its ability to create unique weapons systems at the very cutting, advanced edge of technology has always been its greatest asset. We have maintained our ability to dominate in certain areas of armaments and certain areas of defense in the world because of the ability, the R&D and the industrial base in America, to create weapons systems which provide, by and large, deterrence.

That is the essence of this aircraft. It is to deter the use of any strategic forces by any adversary—principally the Soviet Union—in the years to come. Thus far, we have passed through the gates in a satisfactory manner as it relates to fly-before-buy with this aircraft.

So, therefore, Mr. President, I ask the Members of the Senate to bear in mind the tremendous costs that have been invested by the taxpayer in an aircraft that, thus far, has worked and met the requirements, and that if we were to stop at 15 and have a unit cost of $2.3 billion per aircraft and thereby use the opportunity to at some point in time, assuming the test and the dates are met satisfactorily, go on to a level of 75 aircraft, as recommended by the President and the Secretary of Defense, we will have lost a tremendous investment.

The PRESIDING OFFICER. The time controlled by the Senator from Virginia has expired. The Senator from Nebraska has 6 minutes, 11 seconds.

Mr. WARNER. Mr. President, I ask the distinguished Senator from Nebraska if I might reserve that time for the Republican leader, if we can inquire as to the availability of the leader.

Mr. COHEN. Will the Senator yield 30 seconds for a question?

Mr. WARNER. I will be glad to yield.

Mr. COHEN. The Senator from Virginia indicated that the B-2 has in fact flown on several occasions. As I understand it, last year the Air Force was provided with $1.6 billion to buy two B-2 aircraft, and there were certain fences set up that they had to measure up to. Can the Senator from Virginia tell me whether or not the Air Force has in fact passed over the fences that were set last year for the two B-2 aircraft?

Mr. WARNER. We have not fully received the results. The Senator is correct. I did want to say the plane has flown, before we finish the buy.

I am advised that the Republican leader is en route, Mr. President.

Mr. EXON. Mr. President, the Senator has how much time?

The PRESIDING OFFICER. The Senator has 5 minutes and 16 seconds.

Mr. EXON. Mr. President, I would like to reserve that time for the Republican leader. I ask unanimous consent that we have a quorum call, without charging it to either side.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Reserving the right to object, and I will not object. I do not object now that the Republican leader is here.

Mr. EXON. Mr. President, I withdraw the request for a quorum call.

I yield whatever additional time I have remaining to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized for 4 minutes and 57 seconds.

Mr. DOLE. If the Senator from Nebraska needs additional time, I might be able to talk my colleague from Maine out of a minute or two. He does not have any time. Is there any leader time available?

The PRESIDING OFFICER. The leader time has been reserved; that is 10 minutes.

Mr. DOLE. I can take 5 minutes of the leader time and leave the Senator from Nebraska with his 5 minutes.

Mr. EXON. I do not need any more time. We have had enough debate.

THE NEED FOR B-2

Mr. DOLE. Mr. President, this is a very important debate, and indeed more important this morning than it was last night. We have seen we cannot control the world. We cannot control people like Saddam Hussein. We cannot control events. We do not know what is going to happen next week, tomorrow, or a month from now, or 6 months from now, or a year from now.

I am not certain this is a rational way to go, and that is the way the Senate Armed Services Committee is proceeding. I have listened to the chairman of the subcommittee, and I agree with the chairman of the subcommittee.

We must decide now how our military forces will be structured over the next several decades.

We must make these decisions in an environment of tight budgets, a changing world situation, and at a time when the United States is actively engaged in arms control negotiations with the Soviet Union.

Each of these factors could make it easy for some to do exactly the wrong thing. And yet, we will live with the results of these actions for some time to come.

And that is another thing we do not want to lose sight of. There has to be some lead time, and we cannot reverse it and say, oh, we made a mistake on this day in the U.S. Congress. If we want to turn around and correct it 2 years from now, it will be too late.

As I indicated, we were reminded just last night how quickly world events can change. This should come as no surprise to anyone who looks realistically at the threats and instability that exists in the world today. In their euphoria to spend a peace dividend, the House Democrats covered their eyes to these threats and voted to gut American defenses during these dangerous times. I have confidence my colleagues in the Senate in a bipartisan effort will not follow their lead.

For over 40 years, nuclear deterrence has guaranteed the safety and freedom of this country. For the better part of that time, our nuclear deterrence has been based on the concept of a nuclear triad.

I think we would all agree that the triad has served us well. But, some are saying that times have changed—the cold war is over and we have won—that we do not need a nuclear deterrent. But I see nothing to suggest that deterrence will not remain a critical element of our national security needs.

The Soviet Union is now—and will continue to be the only power on the globe capable of destroying our Nation. The Soviet Union is a superpower only because it possesses nuclear weapons. And, it appears unlikely that the Soviets are willing to give up that claim.

Further, despite all the talk of change, the Soviet Union continues to modernize its strategic forces, to field increasingly accurate and lethal missiles, and to invest heavily in strategic defenses.

And we were reminded last night that there is a lot of mischief in the world—a world that is seeing the rapid proliferation of ballistic missiles and emerging nuclear powers.

As one who has had the opportunity, not the privilege, to sit down, and sit down they did, with Saddam Hussein with my colleague, there is no doubt in my mind this man is unpredictable. That is the best you can say about him; some will say a lot more. No one knows what he really has in mind. He says, "I am just trying to take territory that belongs to Iraq."

I think deterrence is vital today, and I think this vote ought to be overwhelming today. Maybe yesterday, it might have been close. We need something to wake us up here from time to time; we need a wake-up call, an alert that we are not going to control the events in the world; we have to be prepared to respond to the events in the world. That is the key difference. We cannot control; we have to be ready to respond.

Mr. President, deterrence is vital today—and it will remain vital in the future.

In light of this, it is important to recognize that only modern, survivable, and capable forces will deter.

In my view, strategic modernization is one of the most important elements of this Defense bill.

I think we all agree that our bomber forces are no less important to our triad than our other strategic forces. Both the United States and the Soviets agree that bombers are the most stabilizing weapons—and, we have structured our arms control negotiating position around that fact.

A manned penetrating bomber will become even more important under a START Treaty than it was over the past 40 years. The B-2 is at the center of U.S. strategy for achieving stability at reduced levels.

In my view, the President's decision to proceed with modernizing our bomber forces—to build the B-2—was the right decision. The Senate Armed Services Committee made the right decision when it voted to fully fund the B-2 program. And, the House made the wrong decision when it failed to support the B-2, when it voted to squander our tremendous investment in the development of a Stealth bomber.

Some have said—and there are experts here and I am not an expert, not on the committee; there are a number of outstanding people who may disagree on this—we cannot afford the price. They try to add up the cost of one B-2, but they already put in that figure all the money we spent, what is it, some $30 billion in research and development, and then they say this is total cost overall of the remaining airplanes.

That is not an accurate statement.

Some of you will say, "Yes we need modernization, but not at the B-2's price." I think we were all taken aback the first time we saw the figures. But these figures are not new revelations for many Members. Three administrations, six Congresses—Republicans and Democrats alike—have consistently supported the B-2 bomber program through the years.

There is no doubt about it, this is a very costly airplane. I agree with the Senator from Nebraska. It is a system; it is more than a bomber, an airplane. It is a system.

The cost to develop Stealth technology and the B-2 was very high. We have invested over $26 billion in an effort more difficult and more complex than the Manhattan project. But that investment has been made. We have paid for the ability to produce a Stealth bomber capable of penetrating the most sophisticated Soviet air defenses and project power anywhere on the globe—for the next 30 to 40 years.

We have paid for the ability to ensure our strategic deterrent and security in a changing and unstable world. And we have paid for, and received, new technology of the highest order: new materials, modern manufacturing techniques, and advanced electronics. The spinoffs have found their way into many other defense programs, reducing their cost and development time.

Our current and future security needs demand that we do not waste this heavy investment but that we continue to prove out and build the B-2 bomber.

Now, it seems to me that, unlike the House, the Senate Armed Services Committee has given this program the serious attention it merits. They have not only recognized the importance of the B-2 to our deterrence strategy and arms control stability, but have also recognized that a program which involves such substantial investment during these times of tight dollars, requires close monitoring.

I commend my colleagues on the Armed Services Committee for taking a sound approach toward this program. The B-2 means a lot of money spent, but thanks to the efforts of the committee, it will be money spent wisely. I urge the Senate to support their approach and this amendment.

Mr. President, I would like to end my remarks with an excerpt from an article written in 1953, in Aviation Week, at the time the United States was considering the B-52:

> Feeling in some U.S. Air Force quarters is that the difference between B-47 and B-52 performance is not worth the cost of the latter program. Strategic Air Command also anticipates getting supersonic bombers soon enough to make the B-52 strictly a short interim measure.

After 30 years of the B-52 we know better.

I do not think anything has changed. In 1952, it was said we do not need to do it; do not spend it. Look at what we have with the B-52 bomber.

Now we are getting the same advice, and maybe the critics are right; maybe we are going to live in peace the rest of this century and on into the mext century, and maybe someday 30 or 40 or 50 years maybe we will say we should not have spent the money on the B-2, but it seems to me that if we are going to make a mistake we ought to err on the side of being prepared.

As I have indicated, we cannot control events in the world. But we have to be in a position to respond. Maybe it is not a military response. Maybe that is not the response every time something happens. But it could be, and having been one of the World War II veterans still around this place, I would rather be prepared. You do not want to go back to the way it was. Some a little bit older who went into the World War II will remember we did not have the equipment, and we were caught short. It cost us billions of dollars and thousands of lives because we were not prepared.

So I am prepared to suggest if we are going to err, let us err on the side of being ready, being prepared to respond. And we do not need Saddam Hussein to give us that wake-up call. At least we can thank him for that.

I thank my colleague from Nebraska.

The PRESIDING OFFICER. The Senator has yielded the floor.

Under the previous order, the pending amendments are laid aside and the Senator from Maine [Mr. COHEN] is recognized to offer an amendment.

AMENDMENT NO. 2493

(Purpose: To limit the use of funds for the B-2 aircraft program)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself, Mr. LEAHY, Mr. CRANSTON, Mr. HATFIELD, and Mr. WIRTH, proposes an amendment numbered 2493.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, strike out line 7 and all that follows through line 5 on page 8, and insert in lieu thereof the following:

SEC. 113. AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT OF AIRCRAFT FOR THE AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 103(1), the amount authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force is $8,479,056,000.

(b) LIMITATION RELATING TO THE B-2 BOMBER PROGRAM.—Of the funds authorized to be appropriated pursuant to subsection (a), not more than $941,900,000 of such funds may be obligated in connection with the B-2 aircraft program.

PART B—PROGRAM TERMINATIONS

SEC. 121. PROGRAM TERMINATIONS.

The PRESIDING OFFICER. Under the previous order, the Cohen amendment having been offered, the Senator from Vermont [Mr. LEAHY] is recognized to offer a perfecting amendment.

AMENDMENT NO. 2494 TO AMENDMENT NO. 2493

(Purpose: To terminate production under the B-2 aircraft program)

Mr. LEAHY. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. COHEN, Mr. CRANSTON, Mr. HATFIELD, Mr. WIRTH, and Mr. KENNEDY, proposes an amendment numbered 2494 to the Cohen amendment 2493.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 9, strike out "$8,479,056,000." and all that follows and insert in lieu thereof "$7,537,156,000.".

"(b) TERMINATION OF B-2 AIRCRAFT PROCUREMENT.—Funds authorized to be appropriated to the Department of Defense pursuant to this or any other Act may not be obligated for the B-2 aircraft program except for—

"(1) completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act;

"(2) research, development, test, and evaluation, including flight testing of the B-2 aircraft; and

"(3) costs relating to termination of production under the B-2 aircraft program.

"(c) REQUIREMENT TO REVISE B-2 AIRCRAFT PROGRAM.—The Secretary of the Air Force shall revise the B-2 aircraft program consistent with the limitation contained in subsection (b) and, not later than February 1, 1991, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the revised program.

"PART B—PROGRAM TERMINATIONS

"SEC. 121. PROGRAM TERMINATIONS".

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished Senator from Maine [Mr. COHEN] be added as an original cosponsor to the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be added as cosponsor to the underlying amendment by the distinguished Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 2 hours, with the 2 hours of debate to be equally divided and controlled by the Senator from Vermont [Mr. LEAHY] and the Senator from Georgia [Mr. NUNN], or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I yield to the Senator from Maine such time as he may need.

Mr. COHEN. I thank the Senator for yielding.

First, let me respond briefly to the remarks made by the minority leader. He indicated that Baghdad had sent us a wakeup call. Well, there were many of us over the years who have been concerned about what has been taking place in Baghdad. As a matter of fact, last week a number of us led the effort to terminate trade credits going to Baghdad in response to Saddam Hussein's activities. And those who are expressing concern today about the wakeup call were quite eager at that particular point to continue to send trade credits and equipment and technology to help Saddam Hussein in the future.

So we have had wakeup call after wakeup call, and it does not pertain to what took place yesterday.

Second, the minority leader suggested that some people who were eager to spend the peace dividend are prepared to gut the Nation's defenses. I know that the Republican leader does not include this Senator in that particular remark, because my service on the Armed Services Committee, I think, would demonstrate that my commitment to national security is not to be outdone by many others.

Is the triad still necessary? The answer is absolutely yes. Absolutely yes. The question is how we are going to shape the triad.

Now, on the B-2 itself, it is not a question of do we need a bomber. The question is, can we afford this particular bomber? With respect to the B-2, I would suggest to my Republican leader that the costs are elusive; the mission, at this point, is at least questionable; and the capability as yet unproven.

With respect to the cost, it seems that Yogi Berra is back "It is deja vu all over again."

Last year, the argument was: We have spent $23 billion already. Therefore, we must continue the program. We cannot afford not to proceed. Now we have spend an additional $3-plus billion. Well, we spent $26 billion. Now we are required to go forward.

Congress is accused of having known all along this is going to be an expensive program. So why are we surprised? Well, first, Mr. President, let me suggest that until recently the Pentagon did much of what it could to prevent an informed debate on this issue.

In 1986, some wanted to defer the B-2 to buy some more B-1B's. The Department of Defense at that point re-

fused to declassify its estimate for the B-2. However, at that particular time, the cost was leaked to the press of roughly $36 billion. That was the number that was tossed out at that particular time. It represented an estimate calculated in 1981 dollars. I do not have any problem in weapons systems being calculated in constant dollars, but I think this was an attempt to hold the B-2's profile down by leaking to the press a cost estimate in 1981 dollars. So we had the number $36 billion presented to the public at that time.

Back in 1986, Dr. Donald Hicks, who was the Undersecretary of Defense for Research and Engineering, said the cost of each B-2 would be roughly 2 to 3 percent greater than that of the B-1B. Apparently that figure was arrived at by rolling in all kinds of costs into the B-1B that DOD previously had refused to include in the B-1B.

Even now, the numbers are somewhat ambiguous, depending upon whose figures you look at, be it the Air Force or the Secretary of Defense or, more accurately, CBO. CBO calculates the cost to be something in the neighborhood of $64.9, call if $65 billion, for the 75 aircraft.

I might point out an irony. Last year at this very time, at this very moment last year, we were talking about building a force of 132 B-2 aircraft for a price tag of $70 billion. That was last year's figure: 132 aircraft for $70 billion. Lo and behold, we are now here 1 year later, we have been reduced to 75 aircraft, but the pricetag is $65 billion. So I think that the numbers are very important, and it is one reason why we have to examine the B-2 in the context of can we afford this aircraft at this time.

More importantly, that $65 billion figure does not include operation and maintenance. That is simply the acquisition figure. For operations and support, we can add roughly $1 billion a year, according to the best calculations that I have been able to achieve from the Air Force itself.

Norm Augustine, who is the chief executive officer of Martin Marietta, a former member of the executive branch, wrote a book called "Augustine's Law". In that book, he pointed out, tongue in cheek, but not entirely, that "In the year 2054, the entire defense budget will purchase just one tactical aircraft. This aircraft will have to be shared by the Air Force and the Navy 3½ days each week except for leap year, and then it will be made available to Marines on the extra day." Then, he points out that Calvin Coolidge, back in 1928 asked, in a moment of budgetary frustration over paying $25,000 for a squadron of aircraft, "Why can't we buy just one airplane and let the aviators take turns flying it?" It appears Calvin Coolidge may have been ahead of his time.

We are seeing an exponential growth of the cost of this sophisticated technology. It is going to put budgetary restriction on us. The minority leader said we are living in a time in which we are faced with a defense budget that will take a big hit. That is presently the problem. That is what we are trying to deal with. Because we are going to take a big hit, we have to be much more discriminating in the kind of system that we are going to be purchasing.

In response to all of this, the Air Force or the Department of Defense will come back and say, "Look, notwithstanding the pricetag, forgetting about the ticker shock, what price deterrence? What price freedom? You cannot put a price tag on it." And they are correct. But that argument can be used to justify every single system that we could conceive off. The real issue is whether it is worth $65 billion to acquire the capabilities offered, or we assume will be offered, by the B-2 that cannot be acquired by available alternatives? I think it boils down to this question: Is it imperative to have a bomber whose principal mission is to penetrate Soviet air defenses into the next century? That is the central question.

The arguments have been made, and the Senator from Kansas raised this issue, is the B-2 more stabilizing? And the question is, more stabilizing than what? The B-2 is a stabilizing system, we are told, and I accept this argument, because it poses no first-strike threat as a slow-flying system and avoids dangers of accidental war because it can be recalled after being launched.

General Scowcroft, for whom I have an enormous amount of respect, has said that in the START talks both sides agree the bomber is the most stabilizing nuclear system. It holds a significant number of targets at risk in retaliation, but cannot be regarded as a first-strike system."

All of this is completely true. No one disputes this. The fact is, however, it is also true for a bomber equipped with air-launch cruise missiles. That also is a slow-flying weapon system that can be recalled. As a matter of fact, a White House document was released dealing with the 1988 summit in Moscow, and here is a quote from that document:

> It is the U.S. view that ALCM's, [air launch cruise missiles], should be treated differently from ballistic missile warheads under the 6,000 limit because they are slower and do not pose a first-strike threat.

So, very simply stated, Mr. President, the stabilizing characteristics of bombers do indeed argue for creating an arms control regime that favors bombers, be they equipped with gravity bombs for the B-2 or cruise missiles for the B-1B or B-52.

So the argument really is not whether we should pay $65 billion for the B-2 because it is stabilizing. That misses the point that all bombers are stabilizing. We have a stabilizing system in the B-1B. Equip it with air-launched cruise missiles, for which we are spending substantial amounts of money.

Another argument is that the B-2 is the most threatening system to the Soviets that we could produce. They are terrified of this system, we are told.

I find that somewhat ironic. I find it ironic because it appears that it was the Soviet Union that actually suggested a counting rule under the START Treaty that would favor building the B-2 bomber. If the Soviets fear this weapon system the most, then we have to ask why in the world would they in fact suggest a counting rule which would encourage us to go forward and build it? Either they have no fear of their ability to detect and defeat the B-2 or they have no fear of our willingness to pay the high price to produce it.

For a long time, we were told that a major reason for buying the B-2 was the ability it would have to attack mobile targets, in particular, mobile ICBM's. Back when the former Air Force Chief of Staff, General Welch, was commander of the Strategic Air Command, he testified that:

> Fielding the ATB [B-2] will ensure a highly credible capability against the full spectrum of Soviet targets—fixed, hardened and mobile. The ATB [B-2] is the most promising weapon system to counter the relocatable target threat.

That was in prepared testimony, it was not an off-the-cuff response to a question, and similar statements have been made on other occassions by Air Force and DOD witnesses.

The Joint Chiefs' posture statement for fiscal 1988 stated that:

> Plans call for the ATB [B-2] to deploy in the 1990's to ensure a continued US capability to * * * attack the full range of fixed and relocatable targets.

In March of 1989, the current SAC commander, General Chain, submitted information to the committee which stated that:

> The B-2 will be preplanned to attack the full range of strategic targets (fixed/mobile, defended/undefended, hard/soft) in all categories. * * * The B-2 mission will include attacking relocatable targets. Of all current and planned weapons systems, the B-2 can best hold this target set at risk.

He went on to state that:

> The B-2 enhances stability because of its flexibility to strike any SLOP target. No Soviet nuclear forces would be completely invulnerable to a U.S. retaliatory threat. This reduces Soviet confidence in their reserve force.

So time after time Air Force officials said this system is designed to attack a whole range of targets, including mobile ICBM's. That has been said for several years. Until last year that is, when there was a change of tone. Since last year the Air Force and DOD have been much more modest in their claims about the ability of the B-2. In a briefing that was released prior to last year's committee markup, the Air Force stated:

Attacking highly mobile targets is neither the reason for the B-2 nor is it likely to be accomplished with a great efficiency in the near to midterm future.

So they now pushed it off into the distant future. They initially argued it would be used for attacking mobile missiles; but now we are told that cannot be achieved, not during the 1990's and most likely not for some time after the turn of the century.

Mr. President, if we are not going to be able to hunt mobile missiles with the B-2, the next question is what about its ability to attack fixed targets?

There is no argument there. We do not dispute that whatsoever. The fact is, however, the air-launched cruise missile is perfectly capable of attacking fixed targets with accuracy. Let me cite the Air Force annual report to Congress, and this is from the 1989 report:

Air-launched cruise missiles are an effective weapon for attacking * * * strategic targets.

The question is again, Mr. President, are we going to spend $65 billion to produce an aircraft to attack fixed targets which can already be attacked by something the American taxpayers already paid for, the B-1B? We are also paying for the advanced cruise missile, the stealthy cruise missile. I suggest we can attack the same targets with an air-launched cruise missile that we can with the B-2.

Another argument now being raised is that of the B-2 as a conventional bomber. And again the minority leader, perhaps, alluded to this, suggesting that as a result of the events in Baghdad we need the B-2 now more than ever. I suppose the Air Force will muster whatever argument it can to support this particular weapons system. But, are we really serious about spending $65 billion for the total program, roughly $865 million per copy for the B-2 bomber, to send it on conventional missions? I suggest we have other alternatives, not the least of which is the B-52 and the B-1B, again each equipped with air-launched cruise missiles.

In addition we have the FB-111, we have the Tomahawks available, and the land attack version of the Harpoon, not to mention the long-range conventional cruise missile. So we have a number of conventional options to attack target sites.

Mr. President, I would like to turn now to the amendment that has been offered by my colleague from Vermont, to explain in very brief detail, if I could—could I inquire as to how much time I have consumed?

The PRESIDING OFFICER. The Senator has used 14 minutes.

Mr. COHEN. Mr. President, during our markup, the Armed Services Committee was forced to make a number of tough choices in order to meet the task assigned to our committee. To give a couple of highlights, here is what we had to do.

We had to defer the Air Force's highest priority tactical aviation program, the ATF. We zeroed the production for DOD's highest priority lift program, the C-17. We deferred the Army's highest priority aviation program the LH helicopter. We terminated a major Army air defense program called ADATS. We zeroed production funds for the Navy's highest aviation program, the A-12. We zeroed production funds for the Navy's new generation attack sub, SSN-21. We terminated DOD's highest priority command and control program, called Milstar—zero. And we slashed personnel by 100,000.

All of us understand that the defense budget is going to be cut even deeper. Therein lies the rub with which we are faced.

After having done all of this, we know the Senate Budget Committee or the summit budgeteers, those who are now negotiating, are going to come in with a lower number, calling upon us to cut even further.

It is in view of that reality, Mr. President, that Senators who are concerned about drastic personnel reductions under these defense cuts should know that the only alternative is going to be to dig deeper into the procurement accounts. Senators hope to restore funding to the Milstar Program and other programs, and yet they are going to face the same reality. We are going further down in defense cuts. Many of us do not support that, but that is the reality.

So, if additional cuts are going to be made to the defense budget, I recommend—and what the Senator from Vermont and I are doing is recommending—that we bite the bullet now, that we in fact terminate production of the B-2. I do not think there is any real choice to this.

Under the major aircraft review whose results were announced back in April, Secretary Cheney decided to cut back on the B-2 program. He cut it back from 132 aircraft to 75. What we witnessed was a 43 percent reduction in the number of aircraft, resulting, according to CBO, in a savings of $11.8 billion. So we had a 43 percent cut in force structure with about a 15-percent savings in the cost. That means we are going to spend about $865 million to buy every B-2, and in contrast we will save about $207 million for every B-2 that we cancel.

If we really look at it logically, we would say we are better off to build the 132 or terminate the program altogether. At least you can make a sensible argument to go back to the original program, build the 132 because you are only saving $11 billion and you are cutting the program virtually in half. But we are not going to build 132 so that argument I think is lost.

We have several options for halting this program. One is the option that was pursued in the House of Representatives, and that is the so-called Aspin alternative. What the House of Representatives did, essentially, was to say, finish your R&D program, proceed with 10 production aircraft, convert 5 of the research and development aircraft to operational status, so you end up with 15 aircraft. That is going to cost you $8.7 billion in addition to what has been appropriated already. That is what the House would do.

One alternative would be to simply stop work immediately on the B-2. Cut everything out. That is extreme. That says cold turkey, no more B-2 work, period. If that were done it would actually result in a recouping of $4.2 billion that has already been appropriated and it would cost $13 billion less than the option that has been pursued by the House of Representatives. So, if if we stopped everything right now, shut it all down, we would recoup something like $4.2 billion and not spend the $8.7 billion that is required under the House version.

I might point out that, with respect to the House version of just having 15 aircraft, the Air Force says from a military point of view that does not make any sense. Do not give us 15 aircraft. It is not militarily capable.

The final alternative is the more modest approach taken by the Senator from Vermont.

The Senator from Vermont has offered an amendment that would provide for the full R&D funding request for fiscal 1991, but deny all procurement funding for 1991. In other words, complete the R&D program, including the 6 full scale development aircraft, finish their flight testing, and then conclude the program. The Air Force would not be allowed to proceed with any aircraft intended for operational purposes. In short, this amendment says finish the R&D, including the flight testing, and then terminate the program.

Mr. President, it seems to me this is the most prudent course to follow. It is essentially the same approach we took a decade ago when we stopped the B-1A program. We allowed the Air Force to finish the R&D on the B-1A and then we prevented them from

going to an operational force. So we have a precedent.

Second, it seems to me this makes the most fiscal sense for all of us. We could save more money by terminating it; no more money being expended. But the Leahy approach would allow us to complete the full scale development and the testing, and then terminate.

I suggest, Mr. President, if we look down the line, all one can see are deeper and deeper cuts. And while there is resistance on the part of some of our Members to cutting more military personnel, and we are already at a 100,000 cut, we will have to go deeper. If there is support for an effort to go back and restore the Milstar program, which many would like to do, or if there is support to do more in SDI, the money has to come from someplace.

What we are suggesting is that this particular program, important as the technology might be, nonetheless is not worth the cost under the circumstances, given what we have to do to all the other programs.

If we had unlimited funds, I would say build the B-2. We do not. Can we accomplish essentially the same objectives with a B-1B and air-launched cruise missiles? I believe we can. So it is because of budgetary constraints, because I do not want to see deeper cuts in our manpower, because I do not want to see the other cuts that have to come as a result of going below what the mark has been for the Senate Armed Services Committee, that I rise in very strong support of the amendment offered by the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. The Senator has 39 minutes, 40 seconds.

Mr. LEAHY. Mr. President, last year I offered the first amendment in the Senate to end the procurement of the B-2 bomber. Ten committee chairmen and the majority leader supported that measure. With the leadership Senator COHEN has shown in this area of the defense budget, and other areas, I am pleased in joining him in offering a similar amendment today.

Mr. President, the obvious question is what has changed in the last year, last year when we received 29 votes to kill this program?

The nuclear threat we are facing has continued to diminish. The cost of the B-2 program continues to escalate. Our economy now seems posed on the brink of a recession. Each of these factors makes terminating the B-2 program more compelling.

Economic growth in our country has slowed to a snail's pace. The cost of the S&L bailout mounts with each passing day. It sends our Federal deficit into the stratosphere. The Gramm-Rudman meat ax is poised to slash unprecedented amounts in vital Government programs. The Pentagon's response to this is to move forward with a policy of unilateral economic disarmament, spending tens of billions of dollars on a warplane we do not need, while the Europeans and Japanese continue to pour resources into making their economies more competitive as we head toward the next century.

I fear that if we do go forward with this ill-conceived program, the B-2 will find itself with yet another mission: flying boldly over the smoldering remains of our decimated economy.

Mr. President, this amendment is slightly different than the measure I offered last year. The Air Force will be permitted to complete construction only on planes that will be used in the flight test program. They will not be able to complete any further work on planes that are intended to become operational.

Last year we proposed finishing all planes in the production pipeline. However, the Air Force announced this year it would require $8.7 billion in addition to the $25.7 billion authorized so far to finish all 13 planes. I think this is far too expensive to have a minimal operational force.

The Cohen-Leahy amendment directs the Air Force to use over $3 billion in unobligated funds to complete the so-called test planes. These funds should cover construction and termination costs. The amendment provides for research and development to continue. There is important technology that has been developed on this program, and we should not lose it.

Mr. President, we have heard a lot about fences surrounding B-2 funding during this debate. These fences are designed to prohibit certain B-2 funds from being spent before it passes specific testing requirements.

With all due respect, may I suggest that these fences are misplaced. We should not be putting fences around the B-2 money. If we are going to be doing this, we ought to build a large fence around the Federal Treasury because there is going to be a run on the Treasury if we continue with the B-2 bomber. That is where the fence is going to be needed to keep the taxpayers' money from being wasted.

The case against the B-2 has grown over the past year. Military justification has weakened under the burden of political events. Dramatic events have changed the landscape of Eastern Europe. Budapest, East Berlin, Prague, Warsaw—they are no longer targets of our nuclear weapons. Instead, they are in the sights of American tourists. As the threat has declined, it is clear there are much more affordable alternatives to maintain our national security.

Mr. President, this year the Congress needs to reduce the Federal deficit to $64 billion, an illustory target itself. The Congressional Budget Office recently calculated our deficit will be $200 billion in 1990. The President and congressional leaders are now involved in negotiations to figure out how to make serious deficit reductions. We need a bold agreement. The Federal debt is over $2 trillion. It is growing at the rate of $22 million an hour.

The Defense Department has to bear its fair share of the burden to reduce the deficit. The blank check that was written for the massive defense buildup of the 1980's is one of the reasons why we face our current financial difficulties.

Everybody seems to agree on that. Nobody, however, wants to go beyond the rhetoric and the symbolism, because once you go beyond rhetoric and symbolism to cut the budget deficit, it means making tough choices, and casting tough votes to get the result that the American people tell us they want.

There is one step we can take. I think it is a first step in this bill: Cancel the B-2 program. That is one way to start working seriously toward bringing our deficit under control. If the Senate adopts this amendment, taxpayers will save over $30 billion. Last year, the savings from the amendment would have been $40 billion. We need to halt the system now if we are going to get any substantial savings.

Mr. President, last June I recall the Secretary of Defense, a man I have great respect for, pleading with Congress not to nickel and dime the B-2. He warned us that the price would go even higher. He told us that less would be more. He told us either fund it or get rid of it. On April 22, he ignored his own advice when he announced he cut the B-2 program from 132 to 75 planes. He reduced the number of planes bought in fiscal year 1991 from five to two. He directed no more than 12 planes would be procured in any 1 year, cutting the original delivery schedule in half and doing the nickel and diming that we were warned against.

The Secretary estimated several billion dollars in savings from this reorganization. But just a few weeks later, the Air Force was briefing Congress that it could not meet the budget set forth by the Secretary of Defense. Originally, five planes cost $5.5 billion. Now two planes will cost $4.6 billion. The cost of the total program increased by $1.4 billion. These are such huge numbers that I wonder if the policy mistakes being made are being made simply because nobody can comprehend $4.6 billion for two airplanes.

The price of the B-2 is going nowhere but up. American taxpayers just

spent $30 billion to buy the B-1B, and now we want to buy the B-2 at more than $860 million per plane. If we follow the Secretary's plan, $100 billion of our tax dollars will have been spent to buy two new strategic bombers within 10 years; $100 billion on two new bombers within 10 years. I think we need to get a heck of a lot more out of the B-1B before we build a new strategic bomber.

The case with the B-2 fails on its merits as well as its costs. The Air Force originally sold the plane as a solution to finding and destroying Soviet mobile missiles but, as the distinguished Senator from Maine has already pointed out, that is not so. Everyone knew that the B-1B, a low-flying penetrator, or cruise missile, could not carry out this mission. The B-2 was supposed to fill this gap. Now, the Air Force concedes the B-2 cannot locate and destroy mobile missiles.

The biggest stealth characteristic of this plane has been its mission. Nobody can focus on it long enough for it to stay there, it changes so rapidly. In fact, in a briefing paper, the Air Force admits attacking highly mobile targets is neither the reason for the B-2 nor is it likely to be accomplished with greater efficiency in the near to mid-term future.

A stealth mission for a Stealth bomber. Unfortunately, it is not stealth dollars; it is real dollars that are being spent.

What unique mission does the B-2 carry out? None. We do not need another penetrating bomber. We just bought the B-1B that the Air Force claims will be an effective penetrator into the next century. That itself depends upon Soviet air defenses. The Air Force claims the Soviet Union is continuing full throttle on fielding new defensive radars and interceptors. These officials are relying, Mr. President, on the same information that insisted the Soviet economy was half the size of the United States' economy when it was actually only one-third. For years, we planned our national defense spending on the same misguided information. The Soviet economy is in a shambles. Any assertion the Soviet Union is going to spend billions and billions of dollars, even hundreds of billions of dollars on a new radar system stretches the imagination.

I am confident that nuclear deterrence is secure without the B-2 bomber. With warheads on alert now on air launched cruise missiles, the advanced cruise missile, B-52H's, B-1B bombers, MX missiles, Minuteman II missiles, Minuteman III missiles, Trident submarines and sea-launched cruise missiles, the Pentagon is failing to make its case for the most expensive plane in history.

Incredibly, one mission the Air Force has tried to assign the B-2 is to exploit the counting rules under the Strategic Arms Reduction Treaty [START]. Ironically the B-2 debate has come down to threatening American taxpayers with losing the first arms control treaty in a decade unless they spend billions on the B-2.

START goals are to reduce Soviet and United States arsenals to 6,000 warheads on each side. Our nuclear planners, still frozen in the nuclear ice age, insist that the United States should take advantage of a loophole that counts penetrating bombers as only one warhead, even though each plane can carry up to 20 nuclear weapons.

B-2 proponents warn that our national security is at risk if we fail to capitalize on this warhead advantage. These supporters are without peer in overstating threats and understating costs.

But there are other counting loopholes in the START treaty. If Congress cancels the B-2 now, as it should, we will still have more than 9,000 warheads in our nuclear arsenal under START. The Soviet Union will have more than 7,000 warheads under the treaty.

Do we need to spend billions to exploit loopholes in an arms control treaty? I think not. We should purchase weapons because we need them, when they are essential to our national security, not to play counting games.

Finally, Mr. President, the Air Force claims the B-2 provides flexibility during a crisis because the plane takes hours to reach its targets. B-2 proponents argue a "slow to anger" nuclear weapon increases stability.

These individuals fail to note that the B1-B and B-52 bombers armed with cruise missiles also take hours to reach their stations and targets. There is no unique feather that makes the B-2 more stable than another penetrator or an ALCM carrier.

What Air Force officials fail to reveal is that thousands of nuclear weapons will be launched before bombers arrive to pave the way through hostile territory. Like any other penetrating bomber, the B-2 will follow corridors blasted by intercontinental ballistic missiles to suppress hostile defensive forces. The B-2 is actually a cleanup weapon. It will simply circle the Soviet Union to examine targets and bounce the rubble after thousands of nuclear warheads have already been launched.

Mr. President, the B-2 bomber was devised by strategic planners when the cold war was hot and the defense budget was bulging. Even President Bush has declared the cold war is over. History has made the justification for this plane moot. We cannot afford it. We do not need it. I urge that we face the reality in the Senate today.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ADAMS). Who yields time?

Mr. CRANSTON. Mr. President, will the Senator from Vermont yield me some time?

Mr. LEAHY. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. CRANSTON. Mr. President, I rise as a cosponsor of both of these amendments which are designed to end the B-2 program. I praise the leadership of the Senator from Vermont [Mr. LEAHY] as well as other Senators.

Last year the Senate cast its first vote on the B-2 Stealth bomber, after years in which this program was shrouded in secrecy. It is my hope that today we will cast the last vote on the B-2—a vote to end further production of this billion dollar boondoggle.

The B-2 is a glaring example of the serious disconnect between the defense spending plan the Senate is considering and our changing defense needs. The Armed Services Committee made an important start in cutting $18 billion from the Pentagon's $306 billion budget request. However, there is much more that needs to be done. As we reshape our force structure to respond to the diminishing threat, we have a unique opportunity to make deeper cuts in defense spending.

In this era of burgeoning budget deficits, deeper cuts in defense spending are all but inevitable. As Chairman NUNN noted in his series of speeches on defense spending, the Pentagon provided us with a defense budget, the basic structure, which is more than 2 years old. The time for us to lay the groundwork for deeper cuts and future savings is now.

If we do not eliminate these big ticket items from the budget, we are committing ourselves to spending billions of dollars in the coming years to complete systems that are simply no longer relevant. Let us be clear, this debate is not about the B-2 bomber alone. This debate is about our spending priorities for the future—about whether we will be spending taxpayer dollars on the next generation of weapons systems or on projects that advance the real security needs of the next generation of Americans.

It is no longer enough to be a leader among nations in military might. If we are to remain strong, we must face the critical challenges at home.

Over the next decade we should realize a peace dividend of historic proportion. I will be working to ensure that we achieve it, and that we invest it in programs that address critical human needs—education, the environment, health, housing, transportation, and antidrug and anticrime programs.

Yet, as we seek ways to cut the defense budget, the cost of the B-2 bomber continues to soar. In 1978, the Air Force said it would cost $218 million per plane. Last year, they said each plane would cost $532 million. Now, we are facing a price tag of $860 million per plane, and there is no end in sight. The sky, it seems, is the limit. If we include the operating costs of the aircraft over its lifetime, using Air Force estimates, the cost per plane will hover at $1.1 billion.

Yes, the B-2 is truly a billion dollar bomber, that's what it would cost if it was built of solid gold.

Secretary Cheney has told us not to nickel and dime the B-2. Now, as a result of his major aircraft review, we are doing just that. But the cost of the B-2 is much more than a few nickels and dimes. If we reduce the number of planes and stretch out B-2 production, as Secretary Cheney has asked us to do, we will end up spending more than $80 billion.

The Air Force acknowledges that the costs of the B-2 program are skyrocketing. In fact, they came back to Congress only 3 weeks ago to let us know that they were wrong in their cost estimates for previous years. They now need $1.4 billion more, on top of the $4.5 billion requested for fiscal year 1991, to pay for planes we thought we had already paid for over the last 3 years.

The Air Force has also announced that the termination costs of the B-2 are prohibitive. According to the Air Force, we have spent so much, we have no choice but to proceed—this plan is just too expensive to kill.

I am afraid that if we continue to let this hemorrhage of dollars continue, this plane will be too expensive to fly.

This is why I urge my colleagues to join this effort to end further production of the B-2. If we end production of the B-2 now we will save over $34 billion in direct program costs, plus approximately $18 billion in the operating costs for the fleet of B-2's as they are presently configured.

At a minimum, the underlying amendment would cut $1.9 billion in procurement funds and would allow the Air Force to complete the planes that are in various stages of production. At a maximum, our second degree amendment would eliminate funds for procurement and advance procurement and would direct the Air Force to complete the six planes that have been designated test planes with more than $3 billion in unobligated funds for previous years.

This amendment goes further than legislation I introduced earlier this year, the B-2 termination legislation. It is time that we take decisive action.

In the last year we have worked to develop the public debate on the B-2 and develop a majority to terminate the program. Beyond the sticker shock, there are serious questions about what this plane contributes, if anything, to our overall nuclear deterrent and war-fighting capability.

As support for the B-2 has eroded, Congress has been bombarded with arguments on why we should build the B-2. The Air Force has gone on the offensive, organizing strategy retreats, selectively releasing information, and even stooping to promotional gimmickry during the recent invasion of Panama.

We have been told that men who have held positions of great trust for the security of America support the B-2. Yet, a growing number of well-respected members of the defense community question the merits of proceeding with the B-2 program, among them Robert McNamara and Lawrence Korb, an Assistant Defense Secretary in the Reagan administration.

Respected defense analyst William Kaufmann, now with the Brookings Institution, called on Congress to halt the rush to produce the next generation of weapons. Last week, as we all know, House Armed Services Committee Chairman LES ASPIN joined the chorus of critics, stating that there is no unique and compelling mission for the B-2.

Over $30 billion has been invested in the B-2 program and the development of radar-evading stealth technology. What many fail to realize, however, is that the B-2 is yet to be tested against any radar.

There have been no notes of the B-2's stealth characteristics on a real full-sized bomber, and critical testing will not be completed for another 3 years. We have no idea if this technology works. Even if one could make the case for buying this plane—and I would argue that one can not—we would be violating one of the most basic tenets of defense procurement: Fly before you buy. The Armed Services Committee deleted procurement funding for a number of key programs for this very reason.

The decision to buy more B-2's before we know what this plane can and cannot do is pure folly. Indeed, the existing evidence on stealth countermeasures is troubling. In recent testimony before the Senate Armed Services Committee General Larry Welch, the previous Air Force Chief of Staff, testified that the B-2 would be detected on radar screens. Public reports indicate that our own military is developing systems capable of tracking planes equipped with stealth technology.

The French are developing radar that operates on very high frequency bands enabling signals to defeat radar-absorbent coatings used to make stealth aircraft hard to detect. Impressive advances in over-the-horizon radars and technology designed to detect air turbulance for a low-observable aircraft suggest that stealth-defeating radar could detect and compromise the B-2. All these developments need further study before we spend billions of taxpayer dollars to produce more stealth aircraft.

Mr. President, our nuclear deterrent is robust without the B-2.

We have just spent more than $27 billion to modernize the bomber leg of our nuclear triad, buying 97 fully capable B-1 bombers. New findings from the Air Force Logistics Command indicate that our fleet of B-52's can fly well into the 2030's. Stealthy advanced cruise missiles will keep the bomber leg viable well into the future.

For years the B-2 has been touted as the only weapons system capable of locating and destroying mobile or relocatable targets and, as Senator COHEN stated, the Air Force has backed down from its oft-stated position now on mobile missiles.

B-2 proponents argue that the B-2 is the best system to seek out and destroy fixed targets, despite the fact that ALCM's launched from bombers can effectively penetrate and reach thousands of targets. The argument that the B-2's gravity bombs are the only way to destroy the most hardened targets of high value, suggesting deeply buried shelters designed for Soviet leaders is woefully out of date. Do we really want to proceed with this gold-plated bomber solely to eliminate Mikhail Gorbachev and the new Soviet leadership, presumably the very same people we would want to negotiate with in the highly unlikely event of a nuclear war?

The B-2 is deemed more flexible then bombers carrying cruise missiles. In the event of a nuclear war—again, an ever more remote eventuality—a bomber crew flying over the war zone could determine that the planned target was already sufficiently damaged and could attack something else. This dubious mission is premised on the ability of a bomber crew to actually determine whether a target has been sufficiently damaged in the chaos of a nuclear battle. The marginal benefit this brings to our nuclear warfighting capability, if any, is questionable, especially at such cost.

One of the favorite arguments of B-2 proponents is that the B-2 can serve in a variety of conventional roles notwithstanding the reluctance of the Pentagon to send the $1 billion bomber on such missions.

Even the F-117A Stealth fighter was sent to Panama over the objections of some officials. We have more than enough aircraft to conduct sea surveillance and all the many conventional missions that can be dreamed up for the B-2 bomber.

The argument that the B-2, with its potential radar-evading capability, will force the Soviets to invest vast sums of

money to upgrade their air defenses flies in the face of reality. The Soviets, coping with seemingly endless political and economic crises, cannot divert much-needed funds to defense before responding to urgent domestic needs, and we do not really want them to under current circumstances when we and our allies are talking about giving support economically in one way or another to the foundering Soviet economy.

Mr. President, I am troubled by statements of key defense officials, including the Joint Chiefs of Staff, about their inability to support the START Treaty without the B-2. All too often we have had to promise the services a new weapons system in order to have their support for an arms reduction treaty. The irony of proceeding full speed ahead on nuclear modernization programs at a time when we are striving to reduce our nuclear arsenals sometimes seems to be lost on them.

Even without the B-2, we will still have more than 8,000 nuclear warheads under the START treaty. If we actually build 75 B-2, bombers—and I don't believe we will—we would have an additional 1,000 warheads. Is this really necessary as we contemplate the next round of START talks to reduce our nuclear arsenals even further? It seems to me that because we have been able to get the Soviets to accept the principle of undercounting warheads on bombers, we are now being told that we must spend billions of dollars on a new bomber so that we can take advantage of this rule.

Let me finally make one point, Mr. President.

I have consistently fought for California projects which I believe to be of value to our national security and are cost effective. I am keenly aware that the vast majority of the funds for the B-2 would be spent in my home State and could provide thousands of jobs for California. I deeply respect the individuals involved and the wondrous technology they have labored to produce. I will work hard to create opportunities for them and the many workers in my State who may feel the impact of the defense budget cuts.

I am confident that the diverse California economy will make use of these highly transferrable skills.

The savings we realize on this and other programs, properly invested, could open up lucrative markets for new and existing commercial products, create thousands of new jobs and businesses, and boost the productivity of the American worker.

Leadership on reordering our priorities must begin at home. I hope to set an example by leading the fight against California's B-2 because I think saving this money serves a crucial national interest.

Mr. President, the end of the B-2 will mark the beginning of a new era in the way this country plans for its defense.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have a full hour left?

The PRESIDING OFFICER. The Senator from Nebraska controls 59 minutes and 55 seconds.

Mr. EXON. I yield 12 minutes to the distinguished chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 12 minutes.

Mr. INOUYE. I thank the Senator from Nebraska.

Mr. President, I rise this afternoon to speak in support of the B-2 bomber.

The bill before us continues the development and procurement of two B-2 bombers. I believe this is a prudent recommendation which should be supported by the Senate because the B-2 represents a breakthrough in many areas of technology. It is still necessary in view of Soviet capability. It will serve as a strong deterrent, and it offers conventional applications if needed.

Mr. President, the fiscal year 1991 budget of President Bush requested funding to continue development and purchase of five B-2 bombers. The bill before us has already reduced this amount to two bombers in concert with the recommendation of Secretary Cheney.

The committee has minimized the concurrency between development and production of the B-2 by holding down production until additional testing has been completed.

I think we should remind ourselves, Mr. President, that this program has been underway for over a decade. This body has already authorized the Defense Department to spend more than $26 billion for the B-2. And we have already obligated about $23 billion, most of it for the funding required to conduct research and development, and to construct huge factories at great cost to produce the airplanes and train the thousands of workers in the complex manufacturing techniques required to build this unique aircraft.

Quite simply, it makes very little sense to stop the program at this time.

Mr. President, I have heard some of my colleagues say that we do not need the B-2, but this view discounts the facts. In nearly every hearing I have held as chairman of the Defense Appropriations Subcommittee one point has been consistently articulated by military commanders, civilian leaders, and intelligence officers of our Government; that is, simply stated, the Soviet strategic modernization program continues at full speed.

While it is true that in some areas the Soviets have reduced spending and are cutting back on their conventional forces, this is not the case in strategic programs. The Soviets are building more submarines. For example, last year they built nine and in constrast we built two. They are building more ICBM's and they have not slowed down the production. They are building more bombers than we are in the United States.

Others argue that the B-2 is not necessary because of the existing capability of aircraft such as the B-1B and the B-52 bombers.

Mr. President, neither the B-1B nor the B-52 will ever have the penetrating capability of the B-2. Furthermore, what capability these systems have is already deteriorating.

Some have argued that cruise missiles can replace penetrating bombers. I agree that cruise missiles are an important component of nuclear deterrence, but that is all. Like submarines and ICBM's, cruise missiles provide one element of nuclear deterrence.

And I think we should keep in mind that once a cruise missile goes out beyond a certain point, once an ICBM leaves the silo and goes beyond a certain point, they are beyond recall. It is death. But a B-2 can be recalled.

Some critics contend that the B-2 will not work, that it can be detected and defeated by existing systems. Mr. President, this is simply incorrect. Nothing has been developed today that can defeat the capabilities of Stealth aircraft. This statement isn't based only on laboratory testing in controlled environments. While much in this area is classified, it can be said that Stealth systems have been tested and they work. I understand that numerous efforts have been made to find a solution to Stealth, and to date nothing has been successful. Some day, someone surely will find a way to unlock its secret, but until that time, it will serve as a very effective weapon. Furthermore, any such technological breakthrough will require an enormous investment in air defense systems before it can provide any significant counter-Stealth capability.

There is another aspect of the B-2 program about which very little is said. There are significant commercial applications in the techniques that are being developed in the B-2 program. Thousands of workers are learning how to work with composite material. It is widely believed that this material will be key to aircraft manufacturing of the future. So too, the computer aided design, robotics and precise manufacturing techniques incorporated in the B-2 program are on the leading edge of manufacturing technology. With the experience gained by producing the B-2, U.S. manufacturers will

increase their commercial competitiveness.

But, Mr. President what is most important, more important than the cost of the program, the commercial applications, the 40,000 jobs associated with the program or the politics of terminating a large strategic program, is the requirement for this body to provide what is necessary for our national defense.

Mr. President, I have heard it said that glasnost means we no longer have to worry about the Soviet threat, that the cold war is over. I would like to believe that this is true, but we can not be sure at this time. And, we cannot risk our country's defense on such assertions and assumptions. Our defense forces must be based on the capabilities of our adversaries not on wishful thinking about their intentions.

There are those among us, however, who take exception to this view of our changing times. They argue that a new, and possibly irreversible reality has taken hold in Europe and that our actions are at least as important to the survival of peristroika and as Gorbachev's skills as a leader. They say that if Gorbachev is to succeed, then we must rally to his side and be prepared to undertake whatever initiatives are called for to ensure his survival. If this should require large-scale troop reductions, then, so be it; in their view, we must outmatch him measure for measure. If the Warsaw Pact is rendered impotent as a military force, then we, in the West, must abandon our commitment to the Atlantic Alliance. If Germany is reunified, as indeed it may be, then, say these voices, we must guarantee its neutrality.

I, for one, take issue with this logic. I refuse to follow that path. Others may plunge into the abyss; I prefer to carefully construct bridges which lead safely from the divisions of the past to a New World united in the peace which we all hope will emerge.

It is not my intention to be a naysayer or a Jeremiah prophesying imminent catastrophe. Rather, I hope to remind those who would leap to judgment about the permanence of change in the Soviet Union, that the impetus for today's reform movement rests on the work of a single, solitary man. To gamble our security, and that of our children, on the survival of this, or any, individual is naive.

To abanon the elaborate security system which has protected our freedom in crisis after crisis, in Berlin, in Greece, and in Cuba, is reckless and foolhardy. Today, 24 hours after Iraq brazenly invaded Kuwait, can we be confident that our security, and that of our allies is totally assured?

My duty—as I see it—is to the American people. My charge is to ensure that their welfare is protected in the event that Mr. Gorbachev and his grand experiment should meet an untimely end.

For these reasons, I support the B-2. I believe that it is necessry for national defense. I believe the B-2 offers tremendous long term potential to serve as a powerful deterrent to any adversary.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 5 minutes to the distinguished senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment which would terminate the B-2 bomber program.

The outcome of this amendment may be the most critical decision this body will make with regard to our Nation's strategic deterrence. The United States must always have a strategic deterrent that is undeniably powerful and survivable so the Soviets will always know that they, the leaders and organs of state power, face sure and rapid destruction if they ever unleash a nuclear war.

Why do I say that this principle is now at stake? Because unless we decide to modernize now, we will enter the next century with an older force, a compromised force, a force vulnerable to Soviet defense. Decisions we make now will determine the effectiveness of our strategic triad for years to come. We have to modernize.

While we are arguing, the Soviets understand this perfectly. With all their problems, with their economy in shambles, with their military budget declining, with their cities plagued with ethnic unrest—the Soviets are still moving ahead. I want to repeat, they are moving ahead at top speed to modernize their strategic forces.

Mr. President, what are we doing? We are arguing whether to have a mobile ICBM or not. We are questioning whether the Department of Energy will be able to make warheads for the Trident submarine. We quibble about crisis stability and cost effectiveness at the margin, and we talk about abandoning the most important development in military technology in years, the Stealth bomber.

I hope we do not lose the fight for the B-2 bomber. We know that the Soviets have not in the least slowed their research to defeat our strategic forces. That is why we have always relied on the triad. If we stop the B-2, we give away one leg of the triad. Then we will be relying on ICBM's and submarines. We know the Soviets can destroy the ICBM's in their silos. Can we be sure they will never find the Tridents?

Mr. President, I am convinced that we need the B-2 bomber. I am convinced that it works. I, like every member of this body, am concerned about its price. It is important, however, that we put the cost of the B-2 in the proper perspective.

Secretary Cheney's revised B-2 program reduced the total buy and annual procurement rates, which resulted in increased flyaway cost. However, when put into historical context, this flyaway cost is still very reasonable. History has shown that each generation of aircraft has been significantly more expensive than the previous, reflecting advances in technology and capabilities. For instance, the flyaway cost of the B-36 was nearly 600 percent more than that of the B-29. The B-52 cost nearly 200 percent more than the B-36. Although it represents a totally revolutionary design of materials, avionics and systems on the leading edge of technology, the B-2 will only cost 80 percent more than the conventionally designed B-1B.

Mr. President, our Nation needs the capabilities represented by the B-2. It represents a critical element of our strategic framework for maintaining deterrence and stability for many decades. The B-2 will make contributions to national security objectives across the continuum from peacetime to nuclear war that cannot be matched by any other system. The events of yesterday involving Iraq and Kuwait vividly demonstrated that we live in an unpredictable world. We must be prepared to confront any and all levels of conflict. The B-2 will enable our Nation to meet the challenge.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 5 minutes to the Seantor from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. WALLOP. Mr. President, as I listened to what is going on here, I express a certain amount of surprise. Perhaps I ought to have a certain amount of indignation, but here our colleagues are expressing dismay that new roles and missions have been identified for this wonderful airplane. Apparently they think that it was designed for only one role and it ought to be restricted in concept to only that role and therefore much more easily criticized. These are the people who apparently believe that the Japanese or the Germans are the only sophisticates in the world who can build flexible multiple-concept technology.

I also listened to them address the area of increasing unit cost. The behavior of this Congress is what creates increasing unit cost. It is inconceivable that the actions of Congress last year would not have added to the cost per unit of this airplane. We built fences

around already existing design and testing capabilities. We delayed its procurement order. The actions of the chairman of the House Armed Services Committee were the most abysmal of all. He wanted to stop the program until the Air Force figured out how to make it cheaper, which was a simple, disguised way of killing the program in the first place.

My friend from Maine describes the role of the B-2 as one that can be easily filled by stealthy robots launched from outside the perimeter. I say to my friend that he has come across a prescription for modern warfare which should comfort us all. We now will have air-conditioning but not fiscal conditioning and we will be able to conduct battle from the inside of bunkers and no one will ever know who won. We will all feel much better for that.

The fact is a manned bomber can provide something that a robot bomber cannot, and the role that it is intended to fill can only be done by manned bombers. There is a role for and a place, both in concept and in appropriations, for stealthy cruise missiles. But the cruise missile cannot in and of itself, in this Senator's opinion, fulfill those roles.

There is another area in here which I think is important to identify, and that is the area of arms control. It is simply not possible for the United States to one-by-one eliminate all the principles that we are negotiating with the Soviet Union and expect them to continue to negotiate. It was not my idea in the first place that the accounting rules would contemplate the B-2. Had I been consulted in that, I think I would have maybe tried to cast us in another direction, but I was not, and it now remains one of the few things by which we can achieve some level of equality with the Soviet Union after the negotiations in these armed control processes.

I point out that the Senator from Hawaii was more than a little bit correct to observe that the Soviets' stragegic efforts are increasing, not decreasing, that their level of expenditure in defense still approaches 25 percent of GNP, and, while it is true that they have significantly declined in their conventional effort, there is absolutely no sign whatsoever of the abatement in their strategic effort.

So whatever Americans may feel about the world as it confronts us now, the threat that we face is a capability that we face. Gorbachev may say one thing and do another because he is human. He may be replaced by someone who would do yet another and who can pick up the tools of warfare and threaten the peace and security of Americans, no matter where they are, or of free world democracy.

In this conventional role, of which some have spoken, I might point out that the conventional capabilities of Third World countries are increasingly sophisticated. The FB-111 is not a simple and incapable airplane. Yet the Libyans shot one down in the raid on Tripoli in 1986.

As we see the conventional capabilities of major powers diminishing, it is unrealistic to suppose that those capabilities will not in large measure be transferred to the hands of other powers in the world. Very sophisticated antiaircraft, air-to-air, surface-to-air missiles already exist in the hands of the Third World. Saddam Hussein, whether we like it or not, represents one wave of the future. The man openly threatened the Western world, including the United States, as did Qadhafi, who said if he had the missiles today, he would fire them at New York. It is important for us to realize that these technologies are going to be in the hands of people who threaten the basic interests of Americans no matter where in the world they may be.

MOTHBALL THE B-2 PRODUCTION LINE?

Mr. President, we understand that one of the proposals under discussion by opponents of the B-2 Stealth bomber is to terminate the program, but to keep the technology alive by mothballing the production line. This approach would eliminate the two planes that are slated to be bought next year, and would mean that only a total of 15 B-2's will be procured.

Somehow the idea apparently is to keep a production capability available, so that if we ever find that we require the advanced bomber, all we have to do is push a button, turn the program back on, and bingo, pretty soon we'll have all the B-2's we need.

But this, I am sorry to say, is just not the way things work.

First, putting advanced technology on the shelf is almost a contradiction in terms. If we agree to stop development, then that capability is completely wasted. We simply cannot afford to invest huge resources in development programs that have no application. This country today enjoys a significant advantage in low observable technologies, and I believe that the only way to keep that lead over our potential adversaries is to continue to apply those technologies through aircraft like the B-2.

A more basic concern is the idea of mothballing the production line. Think for a moment what this means. Do we keep thousands of skilled production workers available to start up at on short notice? How do we keep the countrywide team of B-2 vendors and suppliers in business so that they can provide the parts if and when we decide to start up again? How about the manufacturing facilities. What does mothballing mean to production tooling?

Mr. President, I certainly don't have the answers to these kind of questions, and I doubt that the proponents of this approach do either. In fact, to those who believe that we can keep the B-2 alive through such a scheme, I say that it is simply a subterfuge to kill the program.

A much better alternative, in my opinion, is the proposal submitted by Secretary Cheney and endorsed by the Armed Services Committee. Let's continue the development and test effort, and let's buy the minimum number of aircraft necessary to maintain a viable production line. This will ensure the opportunity for a gradual buildup in numbers, while we also make certain that the system performs correctly.

Mr. President, I call upon my colleagues to support the request for the necessary funds to carry out the proposed B-2 program next year.

The PRESIDING OFFICER. The time has expired.

Who yields time?

The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 8 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I thank the distinguished Senator from Nebraska.

Mr. President, the foremost argument which has been presented to the Senate in favor of the two amendments which are before it right now is that we can save amounts of money measuring in the billions by abandoning the quest for a B-2 bomber. One of those amendments would leave us, as I understand it, with six B-2's, at a cost of almost $4 billion apiece. The other, the more mild one, which is also the position of the House Armed Services Committee, would leave us with 15 B-2's, at a cost of slightly more than $2 billion apiece, as against having a viable fleet of 75 at a cost of not much more than a third of the more economic of the two proposals which are before us at the present time.

The result of the success of either one of these two amendments will be that our long-range bomber, our manned bomber fleet will consist of 97 B-1's and an aging B-52 fleet, most of which will either be out of service or close to obsolescence by the turn of the century.

The natural question to raise is what will the successor to the B-2 be if we should adopt one of these amendments? Both amendments, interestingly enough, would complete all of the research and development on the B-2. That must mean that in the back of the minds of the proponents of the amendments is the possibility that we may have to start up production on a B-2 after a lapse of several years if it is then determined that we need a penetrating bomber.

Will that save us money, Mr. President? Obviously not, because the cost of this money is measured in the terms of millions of dollars.

Perhaps they mean that the B-2 is not advanced enough technology. They make at least veiled criticisms of its capability, and that we should use this research and development to go on to another, even more advanced, bomber, whatever that may be.

Will that be less expensive? Will that be in operation by the turn of the century? The answer to those questions are obvious, Mr. President. It would be a far more expensive campaign and far less likely of success than the completion of 75 B-1's.

Perhaps, however, the proponents of the amendment envisage a third and different solution. Perhaps they believe that by the turn of the century the Soviet Union will be both peaceful and prosperous and stable and will present no threat of any significance to the United States and its allies. Perhaps they believe that by the turn of the century there will be no Libya, no Iraq, no instability at any point in the world. Perhaps those situations will be with us at the turn of the century, Mr. President, but perhaps they will not be.

While the threat to the United States of a massive nuclear attack from the Soviet Union is obviously and dramatically lessened, instability in the world overall is not lessened. It has been increased and is likely to increase as more and more nations develop more nuclear missile capabilities.

In any event, this proposal calls for the effective abandonment, curiously enough, of the least destabilizing and most flexible elements in the nuclear triad. It undermines our position at the START talks. It does not destroy that position. We perhaps could recover it. We can certainly, if we do not accept the B-2, build more missiles, more destabilizing, a less flexible weapon, one which will eat up most or all of any savings which would be made by canceling the B-2.

Certainly this amendment is not based on any Soviet change in nuclear theory or capability or modernization programs. It is simply an extremely risky and expensive bet on a future which is far from certain.

My distinguished friend, the senior Senator from Maine, gave us a long list of alternative weapons systems which implicitly might be more important than the B-2. There are two answers to that: Either that means we just shift spending military money from one subject to another, in which case we are shifting from lower priorities on the part of the Department of Defense to a higher priority which they have given to the B-2. Or, perhaps, the more likely result is that that money will go into systems not listed in the account of the Senator from Maine, but simply those which benefit particular congressional districts or particular States or particular bases which would otherwise be closed. In other words, go into pure pork.

Mr. President, this alternative is not the least expensive to the defense of the United States. It is clearly not the safest for the defense of the United States. And, it is not the wisest course of action.

Others have already dealt with the argument of cruise missiles as a substitute for the B-2, I think convincingly. But I should like to end my remarks, Mr. President, by picking up on the last line or the last sentence of the argument made by the senior Senator from California [Mr. CRANSTON]. Mr. CRANSTON said:

> The end of the B-2 will mark the beginning of a new era in the way in which this country plans for its defense.

I believe that that statement is entirely true, Mr. President. I look on it somewhat differently. The way in which this country has planned for its defense during the course of the last 40 years has been one of the great success stories for not only the United States but for the free world. It has prevented a nuclear conflict. It has prevented major conflicts with other major powers. It has broken the back of the Soviet Union. It has successfully won for us the cold war.

I would say that set of plans, Mr. President, has been marked by success, and that before we change to a new era in the way in which we plan for our defense, it seems to me that we are entitled to place a heavy burden of proof on those who favor such a dramatic change, a burden, Mr. President, which they have spectacularly failed to carry.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, we reserve the remainder of our time.

Mr. LEAHY. Mr. President, I yield 5 minutes to the Senator from Colorado [Mr. WIRTH].

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. WIRTH. I thank the distinguished Senator from Vermont for yielding.

Mr. President, I want to raise three issues here today.

The first issue is the concept of the triad. For a long time, we have had a triad, the purpose of which has been to maintain a balanced deterrent: If one leg of the triad becomes vulnerable we have got the other two. That is the whole purpose of the triad; if something happens to our air capability, we have a sea base and a land base capability. The triad is mutually reinforcing.

What we have seen in the last decade is a dramatic change in our policy. We now have a policy reflected by the development of the B-2 bomber that each leg of the triad should be independently invulnerable and highly accurate, a force in its own right. That is a huge shift and change.

We see that in the effort to make the MX absolutely invulnerable through various basing modes. We see it in the development of a submarine force which is, by itself, effectively invulnerable. And now we are moving toward this enormously expensive weapons system, the B-2.

What we have to understand, Mr. President, is this change of doctrine has cost the American public billions and billions, tens of billions of dollars. We have not had a fundamental airing of the fact that we changed the doctrine. The debate over the B-2 is about one part of this invulnerable leg becoming vulnerable.

A second issue relates to the overall cost question. I was struck, listening as a member of the Armed Services Committee, to the vote over the Milstar satellite. The Armed Services Committee voted, as you know, to cancel the Milstar satellite, a very, very expensive proposition.

Now why was that decision made? It is important to go back to the Armed Services Committee report which notes:

> The committee's determination is that in the context of the severe budget squeeze and the declining threat of nuclear war, the Department of Defesne has not justified the extraordinary expense of this over-designed system for a protracted strategic nuclear war fighting mission.

Mr. President, that was the justification for killing Milstar. If you substitute B-2 for Milstar, that logic is impeccable. The Department of Defense has not justified the extraordinary defense of this overdesigned system, the B-2, for a protracted strategic nuclear war fighting mission. The case for the B-2 mission, as has been so well discussed by others speakers, simply is not there.

Finally, Mr. President I want to make a budget argument. What we are proposing to do here is not to cancel the whole program. If we really were to stand up about this and say we want to stop the B-2, what we would do is to strike all funds for the B-2. The Leahy amendment does not do that. The Cohen amendment does not do that. But if we are really serious about cutting the budget—and this is a position that is really the ultimate cancel the B-2 position—what we would do is eliminate all funding in the budget for the B-2 bomber, including research and development and testing.

What that would do, after all the contract termination costs and so on, is result in a refund to the taxpayer of some $4.2 billion. That is even after paying all of the termination costs. That is the ultimate cancel the pro-

gram position. That is not one taken by Senator LEAHY. That is not one taken by Senator COHEN.

I only use this to point that there is a position that is really the total cancelation of the program that in fact would save us a great deal of money. It would save us, in fact, that $4.2 billion.

I do not want to belabor the mission issues and the dollar issues. I wanted to reflect on the triad issue. We have changed our strategic doctrine very significantly to make each leg of the triad invulnerable, far beyond anything initially imagined; second, the justification for cutting Milstar fits exactly the justification for cutting the B-2; and third, the proposal of Senator COHEN, it seems to me, is an eminently reasonable proposal.

Mr. President, I am pleased to join Senators COHEN, LEAHY, and others in offering this amendment to terminate the B-2 Stealth program after R&D and flight testing have been completed. This amendment, as has been pointed out, would cut all $2.75 procurement funding for fiscal year 1991 while retaining the requested $1.75 billion to complete full-scale development and testing.

The Senate will today vote to impose several important performance criteria and conditions on the release of B-2 procurement funds authorized by the Senate Armed Services Committee. I support that amendment. If we are to buy an operational force of B-2 Stealth bombers, we should insist that the program meet these criteria. But the Nunn-Warner amendment begs the central issues: do we need B-2 and can we afford it? The answer to both questions is "No."

What is the case for the B-2? The Air Force argues that we need the B-2 to maintain the strategic triad of land-based ballistic missiles, submarine-launched missiles, and strategic bombers. Yet one hundred B-1 bombers have just been built and nearly two hundred B-52 bombers equipped with nuclear air-launched cruise missiles are in the inventory. This mix of standoff cruise missiles and the B-1B provides a diverse and powerful deterrent capability for the bomber leg of the strategic triad. The issue is whether a third bomber is necessary to maintain a balanced and credible deterrent.

The Air Force further argues that improvements in Soviet air defenses will render the B-1 incapable of penetrating Soviet airspace in the late 1990's and that the effectiveness of the manned penetrating bomber force will therefore be diminished unless we replace B-1 with B-2. B-2 proponents characterize this as an all or nothing proposition, but it is not. Certainly, a considerable fraction of our current strategic bomber force will continue to be able to reach targets inside the Soviet Union—especially since they will likely do so after nuclear weapons have been used to destroy Soviet air defenses.

Mr. President, we are led by rhetoric from the need for a triad to the need for a penetrating bomber to the need for B-2. But what are we really talking about? To understand the debate on B-2, we must go back to the basic question posed in the early days of the nuclear age: how much is enough?

The answer to that question in the 1980's was never enough as the Reagan administration flamed a debate over the question of nuclear warfighting. The Weinberger Pentagon claimed that we needed to credibly threaten to carry out a wide range of usable nuclear options if we were to deter the Soviet Union from aggression against the United States or its allies. That mindset generated a requirement for an incredible number of nuclear weapons, platforms and associated equipment to provide escalation dominance, escalation control, cross targeting and other elements of this strategy. As part of this mindset, we also moved from the concept of a diverse strategic triad to the premise that each leg of that triad should be invulnerable and capable of hard target kill capability.

Mr. President, the requirements of nuclear deterrence are much less demanding than the war planners at the Pentagon would have us believe. The logic is well-known and straightforward: We require sufficient reataliatory nuclear weapons to hold key Soviet targets at risk and thereby deter the Soviets. We do not need to destroy every popsicle stand on the Siberian railway to hold the Soviet Union at bay.

Obviously, the B-2 provides additional capability to strike Soviet targets—and therefore can be said to provide greater options to the President. But it is a redundant capability—virtually all the targets we need to hold at risk can be covered by other means: Minuteman, MX, Trident D-5, and air- and sea-launched cruise missiles. Can we afford an additional $35 billion to provide greater redundancy and cross targetting options? Would such an expenditure buy the United States $35 billon worth of national security? I do not think so.

Does the B-2 perform a unique strategic mission which justifies its procurement?

The only unique strategic mission for the B-2, combining the great accuracy and high yield of B-2 weapons, appears to be the destruction of Soviet underground command bunkers many hours after the commencement of nuclear war. But do we really need that capability to deter the Soviet Union from nuclear aggression against the United States? The answer is no. Do we need that nuclear war-fighting capability to deter Soviet aggression in Central Europe? The answer is "No."

The Senate Armed Services Committee voted to cancel the Milstar satellite. Why? The report notes the committee's "determination that in the context of the severe budget squeeze and the declining threat of nuclear war, the Department of Defense has not justified the extraordinary expense of this overdesigned system for a protracted strategic nuclear warfighting mission." Mr. President, that logic applies equally to the B-2 bomber.

Recently, the B-2 has taken on the additional mission of selective conventional strikes. This new mission was not part of the original requirement for B-2, and it is of course true that B-2 could be used in a conventional mode. But do we really need such an aircraft to strike targets in places like Libya? Would we build a B-2 for such a mission? Do we really need B-2 for that mission?

Mr. President, much has also been said about another B-2 mission—its role in the strategic arms control talks. At hearings before the Armed Services Committee, senior Air Force officials stated that without the B-2 they would not be able to support the current U.S. Strategic Arms Reduction Treaty [START] proposal. The linkage between B-2 and START is quite obviously an effort to shore up support for the B-2 by holding START hostage. The logic of that position is ironic: that we cannot afford to engage in strategic arms reductions.

The Air Force seems to be suggesting that without the 1,500 weapons the B-2 could ultimately carry, the United States will not have enough nuclear weapons to ensure deterrence. Even without the B-2, under START the United States will have some 5,000 ballistic missile warheads, most of which carry the explosive power of dozens of Hiroshimas—and some 3,000 bomber weapons and air-launched cruise missiles of similarly ferocious power. Are 8,000 weapons not enough to convince Soviet leaders that a nuclear war would cause their country unacceptable damage?

Mr. President, we do not need the B-2 to deter nuclear war. We do not need the B-2 to perform tactical air strikes in Third World countries. We cannot afford to continue to squander scarce resources on a nuclear war-fighting system whose contribution to America's real security needs in this decade and beyond are marginal at best.

We have already spent $26.7 billion on B-2. The Bush administration would like to spend another $35 billion. Last year when we debated B-2 the Pentagon wanted to buy 132 Stealth bombers for $70.2 billion—$550 million each. After Secretary Cheney's review, the Pentagon now wants to buy 75 aircraft for $64.9 billion—$865 million each. The price tag

will almost certainly end up being in excess of $1 billion per copy.

Mr. President, the B-2 amendment recently adopted by the House Armed Services Committee would have us spend another $8.7 billion to build-out all 15 B-2's now in the pipeline. The pending amendment rightly limits further expenditures on B-2 to $1.7 billion for R&D—this would be the last bill we would pay for B-2. The billions in the procurement pipeline would be used to cover the termination costs of the program.

A more stand up approach would strike all funds for B-2, including testing and R&D moneys. That option would result in a refund to the Treasury of $4.2 billion now in the B-2 pipeline—even after paying all termination costs.

Mr. President, to put these numbers in perspective I would remind my colleagues that the administration's proposed effort to help build free-market economies and democratic institutions in the former Communist states of Eastern Europe is $300 million. The Senate Foreign Relations Committee increased that amount to $635 million which, while laudable, is much less than what is needed or what other nations will dedicate. We are spending vast amounts on yesterday's war, while neglecting the challenges here at home and abroad that will shape our world in the 1990's and beyond.

I urge my colleagues to support the pending amendment to terminate the B-2 program.

Mr. NUNN. Mr. President, the manager of the bill opposes this amendment. I am prepared to yield if someone would like to speak in opposition to the amendment. I will probably be speaking for about 20 minutes on the amendment. I have not addressed it yet.

Mr. DIXON. Will the Senator yield for a moment?

Mr. NUNN. I yield.

PRIVILEGE OF THE FLOOR—S. 2884

Mr. DIXON. Mr. President, I ask unanimous-consent to have an aide on the floor, Mr. President. I ask unanimous consent that Mr. Jim Seevers, a congressional fellow on my staff, be accorded the privilege of the floor while discussion of S. 2884 is before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Mr. President, I will go ahead and address this subject at this time. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I rise in opposition to the Leahy-Cohen amendment and also in opposition to the Cohen amendment. Once again this year the B-2 is one of the most controversial items in our defense authorization bill. It has received all sorts of publicity. For years no one knew the costs. All of a sudden we saw this huge cost tag come out, and I do not blame the American public or the cartoonists or anyone else who was shocked and who has made fun of the cost of the B-2. I do think, though, this is a serious debate. I think we on the floor of the U.S. Senate have to rise above "Saturday Night Live" and the cartoons that have been published around the country and really think seriously about what we are doing to our national security.

In the last year since we debated the B-2, we have seen the collapse of communism throughout Eastern Europe and the disintegration of the Warsaw Pact. We have seen plans put forward for the withdrawal of Soviet stationed forces from Eastern Europe, including Hungary and Czechoslovakia and within 3 or 4 years from East Germany itself. We have seen a Soviet Union increasingly forced to focus on turmoil within its own borders, rather than fomenting trouble outside its borders.

We have seen up to now very little slackening of Soviet strategic modernization. It is my hope we will see it in the future and when we do see it, we have to be prepared to make adjustments accordingly, but we have not seen that yet. I believe everyone ought to undersand that. We have only seen adjustments at the margins that appear to anticipate the constraints of the START Treaty.

We are now a year closer to signing a START agreement which in its basic framework, pushed by our side, by the U.S. negotiators for many years, assumes the procurement of a substantial number of B-2's by our Nation. I hope those who are proposing, particularly the first amendment—the Leahy-Cohen amendment—and would cancel the B-2 need to also ask themselves the question: "Are you ready to tell the negotiators to go back, start over on START?" Because that is what you are deciding here. There is no way we can keep the counting rules we have negotiated in START if we kill the B-2.

I am not saying you could never reach a START agreement. I am not saying there is not another way to do it. Maybe there is. But there is absolutely going to be a delay, a very substantial delay, because we cannot keep the counting rules that basically favor penetrating bombers without cruise missiles, and then not develop one ourselves. We simply cannot do that.

We have also had other developments in the last year. We have had flight test experience with the B-2, which we did not have last year. We now have more operational test experience with stealthy vehicles other than the B-2, so we now understand much more clearly what many of us have thought over the years and that is that; this is, indeed, a revolutionary change in the capability to conduct air warfare. Stealth vehicles give us that capability.

We have also had declines in the defense budget that puts pressure on all of us to find cuts. I understand that pressure. We have the Secretary of Defense who has proposed a major restructuring of the B-2 acquisition program. So there have been a lot of changes in the last 12 months.

I think we ought to look at some of those changes. Let us begin by looking at the changes in tensions and the changes in the overall nuclear picture. I think there has been a lessening of tensions and, as I view it, a reduction in the likelihood of nuclear confrontation.

Of all the possibility for nuclear conflict the scenario of escalation from a major conventional war probably in Europe has always seemed the most credible. The dissolution of the Warsaw Pact military threat, the beginning of the withdrawal of Soviet forces, makes this scenario less likely. These changes do not, however, mean that the millennium has arrived.

I think we have to have an ability to distinguish what changes do mean and what they do not mean. Whatever the disposition of the Soviet troops, however large the reductions under CFE, Soviet nuclear forces will continue to pose the paramount threat to the United States national security interests, and will continue to do so after all the required reductions under START have been fully implemented. I think we need to understand that.

Deterring with high confidence the threat of Soviet nuclear confrontation or attack must remain a fundamental tenet of U.S. national security policy. We will have to continue to ask questions, the fundamental questions: What do we believe is required to deter the Soviets? How much risk of failing to deter are we prepared to run? In the past we have insisted on very high confidence in the assuredness of our deterrent capabilities—even on occasion, I must add, the expense of stability. I think we must move back much more to a stability concept.

I believe the United States and the Soviets can and should utilize the START agreement and subsequent negotiations to increase the stability of deterrence on both sides while reducing the number of nuclear weapons. I believe we can do that. In this respect, bomber forces are highly desirable. They can be kept on high alert, ground or airborne; they can be launched early, they are slow fliers and, most importantly, they can be recalled. You cannot do that with a missile. You can with a bomber.

While we are thinking about cost I think we should not lose sight of stability. These are not first-strike weap-

ons. That is the reason the Soviets agreed to count them only as one. That is the reason we have pushed so hard for a bomber concept on both sides really that is more stabilizing and less likely to cause either side to keep its finger on the nuclear trigger.

If you know you have 20 minutes to respond and get rid of your missiles and shoot them or they are going to be blown up—if some general comes in and tells the leader of the United States or the Soviet Union. "Mr. President, I think you have either to fire now or you are going to lose everything"—that is what we call a nuclear trigger.

We make fun, sometimes, of the Soviet technology. It is not a funny thought to think they might come in one day and have their generals tell them they think they are under nuclear attack and they need to respond quickly because the Americans are sending huge numbers of missiles. That is not true with bombers. Bombers take hours, and hours, and hours to arrive at the target.

I hope and pray we never have a nuclear confrontation, but if we ever do I hope and pray we have bombers in the air and that we do not resort first, and the Soviets do not resort first, to pulling the nuclear trigger on missiles which cannot be recalled.

Mr. President, I hope that in subsequent START agreements, we can work to eliminate highly MIRV'd land-based missiles, whether mobile or in silos. Then, not even ICBM's in silos would have to be on the hair-trigger alert that they are on today. If it takes two or three enemy warheads to reliably destroy one of our single-warhead ICBM's, and if both sides have single warhead ICBM's instead of MIRV missiles, then that is a bad exchange ratio for the attacker. You do not gain by going first, and that is a powerful disincentive for any kind of strategic nuclear attack.

While we are debating costs, let us keep our eye on the ball. The ball is we want to reduce the likelihood of any nuclear war; we want to move to a regime on both sides that takes the finger off the nuclear trigger. These costs we are talking about, even if one nuclear weapon explodes on our territory, will pale in comparison to the cost of that, both in human tragedy and economic costs.

Mr. President, bombers without cruise missiles, penetrating bombers like the B-2, will only be counted as one weapon, regardless of how many weapons are carried internally. That is what we have negotiated; that is what we have insisted upon; that is what we finally prevailed on in the arms control talks because we were counting on a penetrative bomber continuing to be in our arsenal. In other words, a penetrating bomber carrying internal weapons counts as one weapon under START, whereas, a B-52 or a B-1 carrying cruise missiles counts at least as 10 weapons. Under START, both sides will be limited to 6,000 accountable weapons, of which up to 4,900 may be ICBM or SLBM weapons. Since both sides have many more accountable ICBM and SLBM weapons than the 4,900 limit, both sides are likely to reduce their ballistic missile forces to just meet that limit. This will leave 1,100 accountable bomber weapons for each side.

Here is where the shoe begins to pinch and to really begin to pinch. The U.S. approach to START has assumed that we would have the B-2 as a penetrating bomber. Under Secretary Cheney's new proposal, 75 B-2's would count as 75 weapons. Thus, 75 B-2's would provide 1,025 additional non-accountable bomber weapons. Assuming the B-1B is kept in its penetrating bomber role for a few years after the START agreement is signed, the 97 B-1's would also count as only 97 weapons. That would leave 928 non-accountable bomber weapons for the B-52's. This would allow us to retain 92 of the current 96 B-52H bombers as cruise missile carriers.

This force structure, 75 B-2's 97 B-1's, and 96 52H's with cruise missiles is the bomber force corresponding to the assumptions the United States has made in negotiating the START Treaty. Depending on the exact loadings, this bomber force would be capable of carrying between 4,000 and 5,000 separately deliverable weapons, although it would be counted as carrying only 1,100. Of course, even under the generated alert, not all bombers can be made combat ready. So the actual number of weapons available on alert bombers in a crisis would be on the order of 3,500 to 4,000.

Over the past year, we have gained considerable more test and operational experience with stealth vehicles, not with the B-2 to be sure. But those of us who have reviewed this test data now understand much more clearly the revolutionary nature of stealth technology.

I urge those Senators who have not been following these developments to receive a classified briefing. I think they will be amazed at the revolutionary nature of stealth technology. I cannot overemphasize that. If this was not a revolutionary development, it would not be worth the money. We make it very clear in our bill that if it does not really have those stealthy characteristics, we are not going to spend the procurement money. That is what the Nunn-Warner amendment makes abundantly clear to all of us. When we vote on that, we will be making sure that happens.

A few things we need to concentrate on in looking at the developments, among the unclassified snippets of information—and that is all we have received in the unclassified area—are that the Soviets AWACS radars would not detect a B-2 unless it was so foolish as to fly directly at the AWACS. Similarly, the pilot of the most modern look-down/shoot-down Soviet interceptor has a better chance of detecting a B-2 if he looks out of his canopy with his naked eyeballs than if he concentrates on his radar scope. That is an amazing revolutionary change. We have learned that the B-2 is designed to have the radar cross-section the size of an insect.

In sum, Stealth works. It has a devastating effect on the effectiveness of modern air defenses, whether on land, in the air or at sea.

Will these judgments apply to the B-2? We cannot answer that question fully, as the B-2 is only now being prepared for its low observability testing. But we do have other Stealth aircraft that are flying that do work.

The Defense Department has done extensive calculations, simulations and test using scale models of the B-2 as they did with our earlier Stealth vehicles. When these real production items were tested, the test results were in very close agreement with the predictions.

But, to repeat, the full-size B-2 will only begin low observability testing this fall. If the B-2 does work as advertised, it will be a formidable addition to our military arsenal, and it will be part of that arsenal for years and years and years. For conventional conflicts, it has a much greater payload than the F-117A, the Stealth fighter, and also a far greater range. Indeed, with one refueling—one refueling—from one of only three bases in the world that would be needed, the B-2 can cover the entire world.

The Stealth fighter by design is a relatively short-range, night attack aircraft and is limited to clear weather operations. Those two cannot be compared in capability, but the Stealth characteristics have a lot in common.

As our overseas bases diminish, the ability to provide firepower anywhere on the globe in hours rather than days or weeks is an important benefit of the B-2.

We have a carrier right now that is getting closer to the Persian Gulf. That carrier has a lot of aircraft on the carrier. Many of them are defensive aircraft. Some of them are attack aircraft. They are going to have a very hard time getting into the Persian Gulf. You cannot get carriers in the Persian Gulf. They cannot operate there.

I do not know what the United States is going to decide about Iraq and the invasion of Kuwait. I know this: We do not have any carrier based anywhere near that country now. So if the President were to decide on some kind of military option, he would have

to rely on what? He would have to rely primarily on long-range bombers, not with nuclear weapons, of course, but with conventional weapons.

So over the years, as we bring back forces, as we have more forces at home, and less deployed forward, these considerations are going to grow in importance.

Many people would say, oh, you would never risk an $800 million airplane on a conventional mission. I have heard that a lot of times. But in the United States strike against Libya a few years ago, let us just take a look at what the United States did. We deployed two carrier battle groups, over 20 ships, off Libya. We spent 5 days prepositioning assets before all was in readiness. We used 8 foreign military bases to execute the strike. The strike required 84 combat aircraft and 35 support aircraft, and we placed 134 air crew members directly at risk, which resulted in the loss of 1 aircraft and 2 crew members. That same strike that we carried out against Libya could have been carried out by 4 B-2's, each refueled once by KC-10 tankers, flying from and returning to the United States, overflying no foreign territory en route, using no foreign bases, placing only 8 crewmen in harm's way and accomplishing the mission in hours rather than days.

Four B-2's and 4 KC-10's, that is about 4 billion dollars' worth of equipment. I do not know the cost of the option we actually used precisely, but you can start by noting two carrier task forces cost $30 billion—in round numbers. But to my mind, the impressive part is not the difference in cost, which is considerable, by the way, in favor of the B-2, it is the difference in lead times—5 days versus hours; and in foreign bases—8 versus none. And most important for our concern for our military men and women in uniform, crewmen at risk 134, the way we did it; 8 the way we could have done it had we had the B-2.

There has been a lot of discussion on the B-2's mission. The opponents of the B-2 charge that the Air Force keeps changing the mission, or sometimes it has no mission. I am not going to sit here and defend everything the Air Force has said about the B-2, but I believe the B-2 mission is quite clear: It is to help deter a nuclear confrontation and prevent nuclear attack from ever occurring. It is deterrence; that is what it is about.

In carrying out this mission, it is no different than our land-based ICBM's, out Trident SLBM's. It performs this mission by not being employed in retaliation because deterrence works. That is what we want: never to have to use it, certainly in a nuclear role. In this respect, its mission is the same as the previous bombers we have had, including the B-52 and the B-1 and all the previous strategic bombers that have stood alert since the dawn of the nuclear age. We can be thankful that they have performed their mission of deterrence flawlessly down to this day.

The strategy of deterrence has worked because the Soviet Union and its leadership has understood the United States could retaliate credibly, flexibly, and with a high degree of certainty against any Soviet strategic attack, no matter how much of a surprise it might be. It has also worked because ever since the days of James Schlesinger, when he was Secretary of Defense, the Defense Department has developed a variety of retaliatory options against leadership, military, and war-supporting targets in the Soviet Union in order to be sure no President is ever confronted with a situation in which his only meaningful retaliatory option was to attack Soviet cities. These concepts underlying deterrence and the maintenance of a robust triad remain valid today. However, may of the systems that could do the job 10 or 20 years ago are no longer capable of providing the same level of assurance of deterrence today, and without the B-2 that assurance will be even less 10 years from now. This is what we are talking about. We are talking about 7, 8, or 10 years from now. But we make the decisions now.

The critics prefer to focus on the B-2's mission if deterrence fails. If deterrence failed, everything looks silly after that. I have seen cartoons of B-2's roaming around looking for targets after 20,000 nuclear missiles go off. If that ever happens, the B-2 has already failed in its mission because deterrence has failed. The missiles look pretty silly going over there, too. Everything about nuclear war is silly. It would take an act of madness to start a nuclear war, but we have to live in the real world and we have to deter that and prevent it from happening.

The critics tend to equate war fighting with deterrence, but these terms are not the same thing. If we get into a debate on Milstar this week, then we are going to talk about war-fighting, extended war fighting after a nuclear laydown. That is a totally different thing from deterrence and the ability to retaliate.

Of course, war-fighting capability in a nuclear situation is an essential element, but in my definition of war fighting it is near-term war fighting, not extended war-fighting, that goes on and on and on after deterrence fails.

If deterrence fails, I do not think there is going to be a long war. We are going to have a tragedy, a holocaust for the world.

If we ever have a failure of deterrence, we are on our way to an unprecedented catastrophe. I am not sure, after that, the fine details matter very much. What is more useful is to think about the ways the Soviets would have to view the retaliatory threat posed by the B-2's so that we will never have a war.

Gen. Larry Welch, former Chief of Staff of the Air Force, gave one of the best answers to the question of the role of the B-2 in the committee earlier this year. He went through all the targets that the B-2 is unique in being able to seek out and hit that other forms of our triad are not capable of doing, or not as capable of doing as the B-2. I will not go through all of that in the interest of time.

Suffice it to say that General Welch's answer suggests several unique target classes for which the Soviets would recognize that our penetrating bombers could productively attack.

For example, one of the larger target classes is the set of deeply buried facilities underground that house the leadership of the Soviet Union. By this I do not mean just the few highly publicized facilities buried under the Kremlin and on the outskirts of Moscow; scattered across the Soviet Union are some 1,500 hardened facilities for high-level military and governmental personnel.

We also have to take into account the extremely hard Soviet ICBM silos, well over 1,000 of them. There are also hardened submarine facilities, literally chisled into the sides of mountains running into the sea. All of these targets require high-yield weapons that penetrating bombers carry and, by the way, cruise missiles do not carry.

Other movable or relocatable targets for penetrating bombers range from naval bases, bomber and tanker bases, and Army units out of garrison, as well as air defense units, and many surface-to-air missile defenses. Many of these are not as difficult to find or assess as would be the mobile ICBM's, about which the B-2 opponents have raised so much attention.

No, the B-2 cannot do well against mobile missiles today because we have not spent the money to develop the kind of sensors that would have to be developed to do that. We may or may not decide to spend that kind of money, but if we ever are going to, if we ever see the need for it, the B-2 is the only aircraft that is going to be able to penetrate and use those sensors.

Before the B-2 opponents dismiss this type of target, it may be well to recall that 40 years ago the B-52 was entering the service of the Air Force as a high-altitude nuclear bomber. Over the years it has been modified to penetrate at low altitude; it has also been modified to carry short-range attack missiles, those equipped with both infrared and electro-optical sensors to find targets to be modified to carry cruise missiles, Harpoon antiship missiles and naval mines.

The B-52 did not start off in that role, but it has been greatly enhanced and has been a very versatile aircraft.

Forty years ago none of this was foreseen, just as today we certainly cannot foresee all the capabilities the B-2 would have.

Mr. President, let us suppose the B-2 program were terminated. The bomber leg of the triad then would have to rely on the B-1's and the B-52's we have today. In this case, a critical question really becomes how long can the B-1 remain a penetrating bomber.

The Air Force currently portrays the B-1's capability as a glass half full. They argue the B-1 is a big improvement over the B-52, and it is. It flies faster and lower and it has a modestly reduced radar signature. However, over the past few years, the Congress has required the Air Force, the Office of Secretary of Defense, and outside experts to conduct a series of studies of the B-1's current and future capability to penetrate both on its own and in concert with the B-2. These studies provide a much more pessimistic view.

General Chain touched on some of this in the committee hearing last year. He noted he has already had to remove all the B-52G models from penetration roles and by next year he will begin withdrawing the B-52H models. Survivability on those models is too low. By 1998, the only penetrators will be the B-1's and they can only be successful when they penetrate in less heavily defended areas of the Soviet Union. In some parts of the Soviet Union they will remain penetrators for some time to come. But the Air Force flatly declares, and I believe them on this, without the B-2 we will have no effective penetrating bomber by the end of this decade.

What accounts for this abrupt decline in the B-1's penetration success? Very simply, two factors. First, the B-1's defensive electronic countermeasure system does not work and by the Air Force's own admission cannot be made to work as well as was originally specified. Second, the decline is the inevitable consequence of continued Soviet development of their latest look-down, shoot-down interceptors and their latest surface-to-air missile batteries. To defeat the B-52's and the B-1's, the Soviets need to do nothing more than they are already doing. This was very plain when we made the decision to build the B-1.

Several of us argued that we should not build the B-1. We lost that argument. I am not here to rehash it today. I must say I do have difficulty understanding people who were for the B-1, which in my view was a fundamental mistake, and who now are against the B-2. I do not understand that. I am sure they have their good reasons, but I have never heard an explanation for that.

Mr. President, recent studies show the B-1's penetrating success in the late 1990's depends critically on three other assumptions: First, that the B-1's flawed defensive avionic system can be made to work at least against the top 11 Soviet threats; second, most importantly to this debate, that the B-2 is acquired in significant numbers which forces the Soviets to continue to concentrate their air defenses in the Western region against B-2's, thereby easing the threats to B-1's in the less defended areas. If we kill the B-2's, the B-1's are going to become less capable and that will be a very clear picture within a couple of years; third, that the Strategic Air Command continues to allocate enough ballistic missile warheads against Soviet air defense assets to destroy roughly half of the air defense threat.

That is what it would take for the B-1 to be able to penetrate. In short, without the B-2 to dilute the threat and without the heavy ballistic missile attacks to disrupt the air defense, the B-1's capability goes down tremendously. That means our ability to carry forth with deployment of airplanes and not use missiles and keep the finger off the nuclear trigger, as I have gone through, is less with the B-1's than we had originally anticipated.

In contrast, the B-2 does not require softening up of Soviet air defenses to penetrate, nor does it rely on electronic countermeasures.

My own view has been and continues to be that President Reagan, Secretary Weinberger, the Air Force, and the Congress made a major blunder in agreeing to acquire the B-1. If we had not done that, we would be buying a lot more numbers of B-2's; the $26 billion we spent on research would be divided and diluted much further down, and you would not have the very alarming per unit cost. But I hope everyone keeps in mind that $26 billion has been spent. We are talking about how much we spend from now on, today, and what we get for it.

Mr. President, if the B-1 cannot penetrate by the late 1990's, and the Congress has canceled the B-2, then our total U.S. bomber force structure will be 97 B-1B's, carrying cruise missiles, and at most 13 B-52H's carrying cruise missiles. That is our allowable ceiling of 1,100 weapons, a total of 110 bombers, each mounted as carrying 10 weapons. Is that adequate? We will have to ask that question. I do not think so.

Mr. President, I understand the case against the B-2. All of us are suffering from sticker shock.

Mr. President, what is the remaining time?

The PRESIDING OFFICER. Senator LEAHY controls 9 minutes 3 seconds.

Mr. NUNN. Is it possible at this juncture to get 10 minutes on the time on the other amendment?

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I am not going to object. Reserving the right to object, so I understand where we are.

I understand that there is a considerable amount of time on the first underlying amendment which would be controlled both by the Senator from Georgia and the Senator from Maine, if I am correct.

Mr. COHEN. The Senator from Virginia controls the underlying amendment.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I have no objection. I wanted to see where we were.

Mr. NUNN. Mr. President, I ask if the Senator will yield to me.

Mr. WARNER. Mr. President, I yield 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator has 10 minutes.

Mr. NUNN. I will wrap this up in about 5 minutes, I hope. But I do think that some of these points have to be developed before we vote.

Mr. President, I understand the case against the B-2. All of us are suffering from sticker shock. Cartoonists are having a field day with both the costs and the Stealth characteristics of the B-2. We are still trying to find ways to save money and alleviate very severe and very serious fiscal pressures.

In addition to all of that, the contractor had serious charges of fraud against it on other programs. So there are problems here. No doubt about it. Negative experiences with the B-1 cost and quality also causes considerable skepticism as to the Air Force claim of the B-2. It is one of the reasons we have made our fences so tight so money cannot be spent on procurement until we test out very thoroughly the Stealth charactersitics.

However, I submit we must think long and hard before we end the role of the penetrating bomber in our strategic triad. Those who propose to kill B-2 program have an obligation to answer some questions for the Senate and for the country.

The same public opinion polls which today show the B-2 as in disfavor may change rather dramatically when we start debating a START Treaty, perhaps next summer, and the American public discovers that the Soviets have a penetrating bomber which counts as one, one weapon, and a thick air defense where they have spent $400 billion, $500 billion, a system designed to counter the B-2's and the B-1's, while at the same time the United States will have no penetrating bombers by the late 1990's, and no air defense system; no air defense system that

would even come close to stopping the Soviet bomber force.

In effect, we will be saying our airpace is vulnerable. We concede that your airspace is invulnerable. We will have to concede that, as far as penetrating bombers are concerned. I do not think that kind of START agreement is going to sell around here. I think we had better think long and hard about it before we make it inevitable.

Mr. President, when the Congress and the American people focus on these disparities and asymmetries, I believe there will be a clear demand to send our negotiators back to Vienna to work on new accounting rules, and in effect a new START Treaty.

There will also be an increasing demand for an expensive air defense system, the costs of which are likely to make the B-2 look like a bargain. You wait until we have another nuclear problem somewhere. Maybe we are over those in the world now. I hope we are. If you have one, you have a situation where the Soviet Union has thick air defenses, and we have no penetrating bomber because of those thick air defenses; we have no air defenses. They are building bombers that count as one. History tells me there is going to be a hue and cry to put in an air defense system.

If you think the cost of building the B-2 is expensive, you wait until we total up what the cost of an air defense system that thick is going to be. It is going to make the cost of the B-2 look like the biggest bargain that we ever killed. That is what is going to happen if we have a fright go through this country about any kind of nuclear possibilities in the future.

Again, I hope that does not happen. But I think the only thing we can do in prudent planning is to assume at some point it will.

Mr. President, there are a few critical questions I want to pose to those who would like to kill the B-2, both in this body and also in the House.

Mr. President, I call on the B-2 opponents to explain the arguments you will use during next summer's ratification debate on the START Treaty to justify the U.S. ratification of a START Treaty, knowing that we will only field 110 cruise missiles carrying bombers, while the Soviets would be permitted much larger bomber forces, while we will have no air defenses and no penetrating bomber by the late nineties.

Do the opponents of the B-2 believe we ought to send our negotiators back, and tell them, now, go back folks; start renegotiating the START Treaty? Is that what we want, because I think that is where we are heading if this bomber force is killed.

Question No. 2: I call on the B-2 opponents to explain what arguments you will use to justify our acceptance of the fundamental disparity that will occur if the United States has no air defenses against many Soviet bombers, but the treaty allows the Soviets to have massive air defenses against which we will have chosen to forgo the one bomber that will be able to penetrate these Soviets air defenses, the B-2.

Question No. 3: I call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defense resources solely on the problem of defeating our cruise missiles carrying bombers before they can get to their launch points.

I call on them to explain why, if we are prepared to spend $36 billion to acquire a token force of 15 B-2's—that is what we would spend under the House Armed Services Committee proposal that has now passed by that committee, which includes the $26 billion we have already spent, plus another $9 billion. Why do that when we can spend another $27 billion, and get 60 more B-2's? With 75 B-2's we could render virtually worthless a Soviet capital investment of some $400 billion and complicate their future defense planning inordinately, and most importantly, make them a whole lot more willing to talk about much lower numbers and a much more stable force posture for the future. That is the bottom line.

Question No. 4: I believe the B-2 opponents should explain the potential vulnerability of the B-52's and the B-1's with cruise missiles to interdiction before they have reached their launch points for the cruise missiles.

I note that in this very bill we are funding the development of two space-based surveillance programs, one for the Air Force, and one for the Navy, that are designed to track nonstealthy aircraft like the B-52 and the B-1 inflight on a worldwide basis.

The Soviet RORSAT Satellite reportedly can already track the United States Navy at sea. So I think the B-2 opponents have to explain why their proposal relies on nonstealthy bombers carrying cruise missiles and does not create inherent vulnerabilities to our triad in the future.

Question No. 5: In my view, if this amendment passes, the savings the proponents are assuming may well not materialize. As I mentioned, in the long run, this amendment may even cost significantly more than the B-2 would. If the asymmetries that are advantages in the Soviets' favor in both bombers and air defenses can be exploited to whip up public concern about the lack of air defenses, or once the B-1 ceases to be a penetrator, we are going to then be ready to go into air defenses for our country?

We decide not to long ago. Are we going to revisit that decision? What will the cost be? Can it be any less than the $123 billion best case that we are talking about for phase I SDI? We will be debating that later. If we are going to debate it, let us also consider that phase I SDI, without air defenses, would be really a total waste of money, I do not think we ought to go into phase I at this stage, but those who do, I am sure, will have more to say about that.

I call on the B-2 opponents to address in detail their assumption about the penetration capability of the B-1, without both the B-2 and a substantial barrage of Soviet air defenses by U.S. ballistic missiles. What is the assumption? What are the implications of the loss of the 1,500 to 2,000 bomber-carried weapons once the B-1 is not able to penetrate any longer? What is the effect of the loss of these weapons?

In closing, Mr. President, let me discuss the cost, the sticker shock problem for just a moment. Let me give a couple of formulas and examples that I think can be understood. The easy formula to remember in terms of the cost of the B-2—and you have to gulp when you give these big numbers—but it is 27-9-27. The first number 27 represents the money already appropriated; $27 billion is a lot of money, no doubt about it. That has been spent. It has gone on not only in the B-2 Stealth research but on reseach on Stealth characteristics that really permeate and will permeate our defense systems both now and in the future. But that money has been spent.

The second number, 9, represents the added cost, in round numbers to complete the flight-test program, finish construction of the 15 operational B-2's authorized to date and deliver those B-2's—one squadron—to the Strategic Air Command. The amendment by the Senator from Vermont does not do that. The House bill does that. It takes a different twist.

The third number, 27, represents the cost of completing the Cheney program. For another $27 billion, we can get the last 60 B-2's.

Mr. President, I think this illustrates how far down the road we have already traveled. For $36 billion more, we would get four times that number, that is 60 more B-2's, a total of 75.

The average cost of the last 60 B-2's is $450 million. That is what each of the next 60 will cost. That is about three times the cost of a jumbo jet, a 747. So when we are talking about this, I think people ought to understand that passenger aircraft that we fly across the ocean cost a lost of money, too. The 747 costs $150 million. But a 747 does not go halfway around the world and back with one refueling. It does not penetrate massive Soviet air defense that they have spent $400

billion on. They do not threaten surface navies all over the world.

When you consider all that the B-2 is asked to do, I do not believe a unit flyaway price from this point on, in terms of the cost, three times the cost of the 747 jumbo passenger jet, is too much to pay for the capability we are talking about.

Mr. President, each Senator will have to make up his or her own mind whether another $27 billion should be spent to buy 60 more B-2's, or whether some lesser, but still significant, number of B-2's at some lesser cost makes sense. We are really not deciding that today. We are keeping the option open. Forty-five B-2's may be all we can afford. It may be 55, or it may be 60. But I suggest that we do not want to foreclose the option today. That is the choice we are making. The Air Force does not believe that only 15 B-2's constitutes a meaningful force. Therefore, I oppose this amendment. I will have more to say about the Cohen amendment in a few minutes.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont has 9 minutes.

Mr. WARNER. Mr. President, will the Senator yield? I would like to take 2 minutes of the time allocated to the Senator from Virginia on the next amendment.

Mr. LEAHY. I yield to the Senator from Virginia.

Mr. WARNER. I would like to thank my distinguished friend from Georgia for giving perhaps one of the finest speeches I have ever heard him give, in terms of overall strategy and justification for a weapons system, in the many years that I have been privileged to work with him. It is probably one of the tougher issues that we have ever had to work together on in terms of preserving a system which, in my judgment, is the highest of priorities. If we look at all the other cuts that we are faced with on this bill, it is this system that ensures the United States the best deterrence against the single most important series of weapons that the Soviets are preserving and modernizing, their strategic forces.

I compliment the distinguished chairman of our committee. I thank the Chair.

Mr. LEAHY. I yield 5 minutes to the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I thank the Senators from Vermont. I rise in support of the amendment introduced by the Senators from Vermont and Maine. I do so with a tremendous sense of respect for the Senator from Georgia, who has just spoken so eloquently. I must say, I have a certain sense of discomfort to oppose something he has argued for.

I think many of us agree here that the first responsibility of government is to protect the national security of its people from international threat and the people's personal security from domestic threat. The question here, really, is how best to protect America's national security from international threats in the years ahead.

The B-2 bomber is no hoax. It is a real option for the United States. It has some potential to protect our national security. In a time of limited options, in a time when the other superpower has acknowledged that you can spend so much on military and still end up as a third rate power, unless your economy is delivering to your people, the question is, what is the best use of that $27 billion that the Senator from Georgia has referred to in protecting our national defense?

Mr. President, I conclude that the best use is not on the B-2 Stealth bomber. The best use is to invest more appropriately in the next generation of threats to the United States and not in the preceding generation of threats. And that is the threats that we will face from unstable Third World nations, and leaders, and from terrorists. I need not belabor the point that the news today from the Middle East suggests to us how real and pervasive that continuing threat is. We are achieving some harmony, some reduction of tension with the Soviet Union, but we have not achieved a kind of utopian perpetural peace in the world. That means we are going to have to continue to invest in our defense to protect our national security.

Mr. President, the B-2 bomber was proposed, I suppose, 10 year ago—more than that now—to add the deterrent that we would provide to the Soviet Union to inhibit the Soviets from striking at us with their substntial strategic nuclear capacity.

Mr. President, I say today that we do not need the B-2 bomber to achieve that deterrence of the Soviets. I understand that the Soviets retain a considerable nuclear strategic capacity. I am troubled by the reports that they seem to be inclined to continue to invest in nuclear capacity. I am puzzled by it.

If I had the opportunity to sit with Mr. Gorbachev, I would say to him, "You already possess substantial nuclear capacity. Your economy is in a shambles. You cannot put bread on the table of your people. Your ethnic and nationality groups are breaking apart. And you cannot even pay your international bills. Why in God's name would you consider investing billions more rubles in the further development of your defenses and your strategic nuclear capacity?"

I believe that there is so much illogic to that proposition that the answer, as this decade goes on, will ultimately be that the Soviets will not invest in that upgrading of their defenses and improvement of their strategic nuclear capacity.

But the adoption of the Cohen-Leahy amendment gives us the opportunity to take that $27 billion and invest it in a place where it can do more good for our national defense. Frankly, it will give us some time. Some of us who are opposing this bomber today may come back at the end of this decade and say now we have the resources to invest in this next generation.

Remember, we have invested considerably in the B-1 bomber. It is very rare to begin two major bomber programs in one decade.

So I say, with the considerable nuclear firepower that we have on our submarines, with the capacity we have to deliver nuclear weapons both from our B-1 and B-52 bombers, and from the land-based missiles, we have an overwhelming deterrent that will inhibit any Soviet leader from considering launching a first strike against us. In that sense we simply do not need the B-2 bomber.

Mr. President, in facing the threats that we will face from Third World nations and terrorists, we need to invest in aircraft carriers; we need to invest in new generation of attack submarines; we need to invest in light helicopters; we need to invest in a mobile lethal military. We will not have the funds to do that and to protect our national security from the genuine threats that are out there if we invest this $27 billion in the B-2 bomber.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute and 22 seconds.

Mr. LEAHY. Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia [Mr. ROCKEFELLER].

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Vermont. Does the Senator have approximately 3 minutes remaining?

The PRESIDING OFFICER. He has 1 minutes and 22 seconds.

Mr. ROCKEFELLER. That might just cramp by style by 3½ minutes?

Will the Senator from Maine yield me an additional 3½ minutes?

Mr. COHEN. I yield the time on the underlying amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I am grateful to both Senators for that. I support the position of the Senator from Vermont and the Senator from Maine with respect to the B-2 procurement. I think this debate has been very helpful and very wise.

Mr. President, at the outset I commend my distinguished colleagues, Senator LEAHY and Senator COHEN, for their leaderhsip on the issue of B-2 procurement. I am sure many of my Senate colleagues have benefited greatly, as have I, from their wise counsel as we deliberate this important matter.

Mr. President, I rise today to renew my opposition to the procurement of the B-2 Stealth bomber. Since I last spoke on this subject just under one year ago, the foreboding I expressed then has been confirmed, the skepticism I conveyed has intensified, and once again I conclude that I cannot in good conscience cast a vote to support this horrendously expensive, technologically unproven aircraft.

As a West Virginia newspaper aptly noted recently:

> In a nation dogged by a $3 trillion debt, a $500 billion savings-and-loan bailout, and inadequate health and social service programs, Congress shouldn't be squandering untold billions on a World War III plane that isn't needed and won't work.

Indeed, the price tag alone ought to give every Member of this body grave pause when deliberating the need for this program. Consider, if you will, that the cost per plane is now estimated at around $815 million, and the estimate is still rising—$815 million per plane, money which by definition in these incredibly tight budget times must be diverted from other vitally important programs.

To put this figure in perspective, compare the B-2's cost with the funding needed in other areas. For slightly more than two-B-2's, we could fund the entire fiscal year 1991 Head Start Program for early childhood education. The cost of two planes would fund the fiscal year 1991 budget for the National Cancer Institute; think of the blow we would strike against that dread disease with the cost of three, four or more B-2's.

And just over half of the cost of one B-2, one-half of one airplane, Mr. President, would have paid for the program to ease the transition to other jobs of coal miners displaced as a result of Clean Air Act changes. The cost of one-half of one airplane, denied to mine workers and their families who had a right to look to their government for help as they bore the brunt of changes over which they had no control. This is unacceptable, Mr. President. It is a failure of our leadership responsibility when we allow thousands of American coal mining families to bear alone the burden which should be borne by all Americans collectively. It is a failure of our stewardship of the public purse, Mr. President, when we deny the cost of one-half of one B-2—a plane that has not yet proven it's needed, and continues to balloon in cost—to extend a helping hand to coal miners and their families with the transition to new skills and jobs.

But make no mistake on one point: I do not oppose the B-2 simply because of its extravagance. My voting record is clear that I will vigorously support defense measures which provide real value for taxpayer's money and demonstrably enhance our national security. Nothing, Mr. President, should ever be allowed to divert our vigilance from the dangers we face; we always must be prepared to expend the resources on the tools that are clearly necessary to defend against those dangers.

But let us assess those dangers with a clear head and steady hand. Let us take due cognizance of the truly dramatic changes in countries which just 1 year ago posed a serious military threat to America and our allies. I am speaking, of course, of the Soviet Union and its Warsaw Pact allies, which within the year have transformed themselves from militaristic states poised to strike in unison at Western Europe and North America. Almost miraculously, they have made the incredible transition into states absored with the daunting tasks of restructuring their societies and rebuilding their economies. The Soviet Union itself is racked by divisive internal dissent. Its economy is in tatters and its population is restive with the drive to throw off communism's stifling yoke.

So it is clear, Mr. President, that the B-2 bomber is a weapons system which is out of sync with our current military needs. Moreover, it has been plagued with technical difficulties and is the paradigm of a cost overrun going haywide beyond all efforts to curtail those costs. But most important, Mr. President, the B-2 program is draining massive amounts from the public purse at a time when critical human needs are not being met. I therefore urge my colleagues to join me in voting to terminate this program.

LET'S CONTINUE THE B-2

Mr. GARN. Mr. President, I wish to spend my time addressing the overall requirement for the B-2 program, and to address some of the concerns that have been on the minds of my colleagues regarding the cost, the mission, and the effectiveness of the system.

I find it very disturbing that this well-planned and well-designed program could be literally torn apart by certain elements of the Congress. I remind my colleagues that four administrations, representating both parties, have endorsed the B-2. The President has asserted that strategic modernization, including B-2 production, has the highest priority in his modified defense budget for next year. Secretary Cheney, after a through review of the requirement, has revalidated the B-2 as a fundamental part of his defense program. And the Air Force has unequivocally stated the need for the bomber again and again.

Yet, we find Members in the Congress who cannot bring themselves to concede to the Commander in Chief at least his first priority. They obviously have come to believe that their concept of military requirements is more valid than that of the professional establishment in the Defense Department.

Or they assert that we cannot afford the B-2, even though the President's request includes funding for it in spite of the significant reductions in the overall total for fiscal year 1991. It is clear to me that those who say we can't afford it really mean that they would like the proposed funds to be allocated to another program.

Now some Members have questioned the mission of the B-2, especially in light of the recent changes in Eastern Europe, and the apparent relaxation of the threat from the Soviet Union. One of their favorite arguments suggests that it is folly to consider sending a manned bomber in after an exchange of nuclear ICBM's. Further, that the mission of the B-2 is impossible because of the need to find so-called strategic relocatable targets in a nuclear environment.

But I must remind the opponents of the program, and I remind my colleagues, this is not the primary mission of the Stealth bomber. The reason for the B-2 is to deter a nuclear holocaust as part of our strategic triad of forces. If we have to launch our penetrating bombers after an ICBM attack, that deterrence will have failed.

The primary mission of triad is to hold a sufficient number of things that are dear to our potential adversaries at risk so that they will not dare to attack. The manned penetrating bomber is essential to that mission, and without it, our strategy would be severely weakened.

Do we still need the triad in the face of relaxed tensions in the world today? My answer is, do we really know what world conditions will exist 12 months from now? Certainly, one could not have predicted the monumental changes that have taken place only in the past few months. One thing is certain, the Soviet leadership will face a most unstable situation over the next few years; consequently, it will be an extremely dangerous time period that will likely hold even more surpirses in the geopolitical environment.

I am convinced that we must not let our guard down now. Our national security strategy has been successful in deterring nuclear attack for over 45 years. Given all of the instabilities and unpredictables, and faced with the fact that the Soviets still have the strategic capability to wipe our coun-

try off the map tomorrow, we need to maintain that strategy.

The manned penetrating bomber remains a fundamental part of the triad today, and we still have a viable capability with our B-1's and our B-52's. B-2 opponents will tell you that this force is all we really need to keep the air breathing leg of the triad operating. Somehow they ignore the fact that the B-52's are really old, older even than the crews that fly them. We worry about commercial airliners that are aging, but the fact that some of our first-line bombers are even older seems to make no difference. I, for one, believe that this country should continue to use its tremendous advantage in advanced aerospace technology to maintain a first-rate national security. Replacing the 35-year-old B-52 with the B-2 Stealth bomber, as we've planned for the past 10 years, is clearly of the highest priority.

Finally, let me address the concern of those that are not convinced that the B-2 will work as designed and that somehow the engineers who developed it overlooked some basic fundamentals of radar, and the airplane is not stealthy at all. Even if by some remote and simplistic chance this were possible, the program has sufficient provisions in it to ensure that its design will be well verified before we are finally committed to significant procurements. Further, the Secretary of the Air Force, obviously a strong proponent of the aircraft, has agreed that if the B-2's low observable design cannot be verified, then we should not and will not buy it.

Last year the Senate included sufficient language in the appropriations to ensure that the stealthiness of the B-2 be verified. The request for only two aircraft this year, and the gradual buildup in production rate now proposed by Secretary Cheney, provides more than adequate time for test and validation before a final decision on the total buy is required. I believe this approach truly deserves the further endorsement of the Senate, and should be supported.

Mr. President, this is not the time to consider canceling a program that has over $27 billion already invested. We have already paid for the technology, for the manufacturing capability, and now we need to take full advantage of our investment. We need the B-2 bomber to help ensure the Nation's security for the next generations of Americans long into the next century.

AMENDMENT NO. 2493

The PRESIDING OFFICER. All time has expired.

Under the previous order the amendment No. 2493 offered by the Senator from Maine has 1 hour and 20 minutes. The time is controlled by the Senator from Maine and the manager of the bill.

Who yields time?

Mr. WARNER. Mr. President, I wonder how the Senator from Maine would feel if the Senator from Indiana would take 5 minutes of time chargeable to the managers of the bill. Would that be agreeable?

Mr. EXON. I am glad to yield. Let me fully understand the Chair. We are now on the amendment offered by the Senator from Maine having concluded the debate on the amendment offered by Senator LEAHY. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. EXON. Yes, I am pleased to yield 5 minutes at this time to the Senator from Indiana. He was very gracious. We ran out of time on a previous bill and he agreed to make his remarks on this measure, and I am pleased to yield 5 minutes to the Senator from Indiana for that purpose.

Mr. COATS. Mr. President, I thank the Senator from Nebraska for his willingness to yield me time on this. We were not able to get the time we needed on the previous amendment.

Let me make some general remarks, if I could, relative to the discussion here today on the B-2. I am going to support the Nunn-Warner amendment, ultimately. After we are through with our discussion of the various options open to us, I am going to support that amendment because I think it is the responsible approach dealing with the remaining uncertainties surrounding the B-2 Stealth bomber. It is, I think, realistic for us to acknowledge that there are some uncertainties, and obviously at a cost per plane that we are looking at, it is important that we examine this as fully as possible before we make a final decision as to whether to go forward and spend this amount of money.

The Nunn-Warner amendment applies very strict conditions on the obligation of funds for B-2 production. It includes nine gates that were used last year, and adds another additional five gates for the B-2 to cross over or pass through before final decisions will be made relative to the full funding of the administration's request of 75 bombers.

Passage of the Nunn-Warner amendment will ensure that the B-2 will not be produced before it has proven the technological characteristics. If it can withstand the test I believe we should proceed with the production of the 75 requested planes.

Let me simply say that killing or severely restricting the B-2 will prevent the United States from acquiring a critical component in our strategic modernization program and virtually throw away the billions of dollars that have already been invested in developing this technology. I would halt the forward march of this technology, one of our greatest strengths, perhaps our greatest strength. Finally, it would undermine our current arms control strategy and prevent our moving to a greater emphasis on manned bombers toward strategic deterrence.

If we terminate the B-2 program, we prevent the United States from acquiring a critical component in our strategic modernization program and, as I said, we waste many billions of dollars that have already been spent in development.

The President has made it clear that he wants to modernize the U.S. triad of strategic nuclear forces. Each component of this modernization effort is essential if we are going to be able to safely reduce the overall level of our forces while maintaining deterrence and stability. If we permit strategic deterrence to erode, all other weaknesses and inadequacies in our military posture are going to be magnified. A thoughtful and prudent reorientation of our military planning and deployments can only take place under the umbrella of a survivable and modern strategic triad. And I think the B-2 bomber is critical to this process.

Mr. President, I think it is important to look at why Stealth technology is so critical to our future strategic posture and our deterrence.

Why is Stealth so important? Given the proliferation of radars and air defense interceptors, not only in the Soviet Union but throughout many parts of the world, it has become virtually impossible to send a penetrating bomber into defended areas to execute a mission. The Soviets alone maintain 10,000 air defense radars, more than 8,000 surface-to-air interceptor missiles and over 3,000 airborne interceptor aircraft. Stealth technology will render U.S. bombers virtually invisible to such forces, greatly shrinking effective engagement areas of air defenses. With the B-2, hostile interceptor aircraft almost have to be within visual range before they can attack our bombers. This is also true of ground based surface-to-air interceptor missiles, which are a tremendous threat to penetrating bombers. The ability to avoid such hostile engagements permits B-2 pilots to plot a safe course to their targets, many of which would be mobile, requiring a manned bomber to validate its precise location.

Canceling the B-2 will also undermine our entire approach to strategic arms control. We have been attempting for the better part of a decade, with considerable success, to convince the Soviet Union to favor bomber forces in START, thereby encouraging both sides to increase their emphasis on slower flying more stabilizing systems.

We have been quite successful in shaping the bomber counting rule in START. Under this rule, each strategic bomber not carrying cruise missiles counts only as a single warhead. This maintains a significant deterrent force

while reducing first-strike capabilities. Having a man in the loop also permits strategic bombers to be launched on less than certain warning, knowing that they can be recalled at any time. For the last several years the Department of Defense, the Air Force and the Strategic Air Command have been shaping their strategic modernization proposals in accordance with the assumption that the B-2 would be a central component of our post-START strategic posture. If we kill this program, we also change the assumptions upon which our START proposals have been based.

While the B-2 bomber is primarily a strategic nuclear bomber, we should not dismiss its contributions to conventional power projection. What we are currently facing today at this moment in the Middle East is the situation in which B-2 conventional use would offer a possibility in the future. And I think, while that is not the main reason we are examining whether we should go ahead or should not with the B-2, it certainly is a component that ought to be studied and analyzed.

The Qadhafis and Husseins of the world would never be able to sleep with ease should they again perpetrate terrorist activities or other violence against the United States or its allies knowing the conventional capability of the B-2 if we possess that.

Mr. President, I have more to say on this and will say so later.

I thank the Senator from Nebraska for the time that he has allotted. I urge my colleagues to support what I think is a resonable way of moving forward with this particular amendment and that is to support the Nunn-Warner amendment that is before us.

Mr. President, I thank the Senator again and yield whatever remaining time I may have.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield myself 6 minutes.

Mr. President, I did not speak on the last amendment because we had a great number of Senators who were very much interested in opposition to this, nor did the Senator from Virginia speak on this. I would like to make a few comments that I think are most appropriate.

First, I wish to compliment the chairman of the committee, the distinguished Senator from Georgia [Mr. NUNN] and echo the remarks that were made by my friend and colleague from Virginia. The three of us, joined by Senator THURMOND from South Carolina, have had many battles on matters pertaining to the national security interests of the United States. We have not always agreed, but on this one the four of us agree completely. I do not believe our position could have been stated any better than as stated by the chairman of the committee. So I compliment him again for those excellent remarks.

After those remarks, I heard the Senate go back to the same rehash of the rehash of the rehash which we have dealt with for a long, long time. Now there is not anything wrong with the position taken by some Senators if they believe, as does the Senator from Vermont, my good friend and colleague, with his essential killer amendment, or as far as that goes from the distinguished Senator from Maine, who is a very valuable member of the Armed Services Committee, and with whom I have not found myself at odds very often. So I do not for a moment question the motives of either the Senator from Maine or the Senator from Vermont.

I do hope that there will be a better understanding by the Senate as a whole, though, before the vote is cast on this measure. I think there was one key point that I want to emphasize again that was made by the chairman of the committee, and that is that we have had testimony in the Armed Services Committee from all of the people that we rely on today to protect the national security interests of the United States.

Without exception, Mr. President, they have told us that they would not be in the position to support the START Treaty as presently envisioned, and with the hopes of all of us that that could come into being, without the B-2. Now, why is that? Well, because when the B-2 was fashioned and when the START Treaty began to take some form of semblance of being passed, the key element as far as the professional military leaders of the United States were concerned, was that we could indeed ratify a START Treaty so long as the balance, the critical balance in that treaty, was not changed or, to put it another way, if that included an inventory of B-2's. The Senator from Georgia made that point very clearly.

I would say, Mr. President, that any Senator that votes for the amendments before us are essentially disagreeing with each and every one of our military leaders of today.

There has been cited by some Senators today, military experts of yesteryear, who I suspect know little if anything more about the intelligence that we have today on the Soviet Union than does any other American walking on the street today.

I simply want all to understand that regardless of how they feel about the costs of the B-2, and certainly they are high, but before that money is saved on canceling the B-2 and transferred to some social programs, I for one say I think that is not a wise decision, and I think that decision is made primarily on the basis of not quite fully understanding what they do.

Yes, Mr. President, this is a tough call. I suspect there is little question but what if the vote on this matter were put up to the people of the United States today with their concern about the budget deficit, with their concern about fraud in the military establishment, with their concern—and legitimately so—about waste, fraud, and abuse, they would eliminate the B-2 Program.

I think, though, there are an awful lot of people in the United States who would like to see a little more leadership than they have seen thus far from the President of the United States on this matter. The President is supposed to be giving a talk, I believe, in Colorado today. Whatever he says about the B-2, or other important programs that he supports, I guess, may be too little or may be too late. The President of the United States is the Commander in Chief. He should be leading on this issue, and he is not.

There are those of us who probably are bucking the political tide. I can only speak for this Senator.

Mr. President, I feel very strongly that the national security interests of the United States in the future and the chances of confirming important treaties for reduction of armaments with the Soviet Union will both be severely hurt if we take the actions suggested by the two amendments currently before us.

So let us please understand that the popular decision in the United States today is to cancel out the B-2. But, as the Senator from Georgia said so well, that might not be the popular decision when the people of the United States come to fully realize that without a B-2—which I emphasize once again as I did earlier on the floor is a system, a quantum leap forward like probably no other leap forward that we have had if it performs as we think it will—if we cancel that out now, I think there are going to be some rather interesting questions asked at some time in the future when the people of the United States come better to understand that quantum leap forward that the B-2 system, as I like to call it, will provide for the long-term security of the United States.

I reserve the remainder of my time.

I yield 2 minutes to the Senator from Missouri.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Missouri is recognized.

Mr. BOND. I thank the distinguished Senator from Nebraska.

I rise in support of the Nunn-Warner amendment in opposition to the other two amendments pending before us.

Some of my colleagues have come to the floor—and off the floor as well—and have stated that because of the changes in the climate, the changes in

the Soviet Union, the changes in Eastern Europe, we do not need to go forward with the strategic weapons systems, such as the B–2.

I feel pretty certain we are not likely to see Mikhail Gorbachev attack the United States. That probably is not one of his options. He is probably not looking at it. But we cannot ignore the fact that intentions change and leaders change. The bottom line is that the Soviet Union maintains its capability to destroy the United States. And as Colin Powell has pointed out repeatedly in the past, it is the capabilities, not the intentions, which we must be able to defend against.

The B–2 bomber will and must play a critical role in our strategic deterrent. Our strategic defense is based on the well-known concept of the land-sea-air triad. The land leg of our triad is weak, especially when compared with that of the Soviets. It appears we will allow it to grow weaker in the years to come.

The air leg of our triad also presents causes for concern. The overwhelming majority of our bombers are aging B–52's, which will have to be retired in the near future. Without the B–2, our bomber force will soon come down to less than 100 B–1 bombers, a dangerously low number.

The B–2 will revitalize our bomber force, not only by replacing aging aircraft but also by introducing unprecedented technology into our force. The B–2's tremendous capability to avoid Soviet air defenses will go a long way toward deterring the possibility of any attack on the United States. That deterrence alone, and the tremendous costs it would impose on the Soviet Union to counter it, make the B–2 worth its cost.

The B–2 will be able to perform other missions as well. The recent, very troubling incursion of Iraq into Kuwait is an example. We could, as the chairman pointed out, meet that threat with the B–2 bomber.

The B–2's ability to deliver a large load while remaining undetected will allow it to be used in missions that would otherwise require commitments of many more aircraft, thereby greatly decreasing the possibility of loss of life and planes, as the distinguished chairman of Armed Services Committee has just pointed out.

The B–2 is an expensive plane, no one disputes that, though when compared with the cost of past bomber programs it is in line. In considering the cost of the B–2, however, we must consider our defense needs and what we will get for our investment. It is clear to me that the B–2 is a worthwhile investment in a weapons system we truly need to maintain our national security. I urge my colleagues to put aside political maneuvering and party posturing and consider the national security implications of this vote. When they do so, I have no doubt the votes will line up in support of the B–2.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield the Senator from Tennessee 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I thank the distinguished Senator from Maine.

Mr. President, listening to this debate here today, I felt as if I was in a time warp, and it was 1981 all over again. We were discussing at that time and debating at that time the almost unprecedented leap in defense expenditures that ultimately occurred during that decade.

I well remember in 1981 or 1982 when the distinguished then-ranking member of the Senate Armed Services Committee, Senator NUNN, not as the main thrust of his statement that day, but as sort of an aside, confided he was not sure we could afford to build both the B–1 and the then new, highly classified airplane known as the Stealth. None of us knew what it was at that time—at least I did not. I had never seen it. I did not know why it was so supersecret. But I did know there was some sort of supersecret research going on.

Well, the distinguished Senator from Georgia was more correct than he knew at that time, now almost a decade ago. Because this country, given its present fiscal circumstance, cannot afford to build both a fleet of B–1 bombers, which we opted to do, and then come forward and build the most expensive aircraft in the history of the world, the B–2 Stealth bomber.

I rise today to oppose throwing good money after bad on this outrageously expensive aircraft. I do so in the name of conscience. I do so, I think, in the name of simple, common sense.

Listening to some of this debate today, we would think that the events of the last year and a half had never occurred. We would think that the Berlin Wall was still standing. We would think that Brezhnev was still alive and well in the Kremlin. We would think that the Soviet Union was still armed to the teeth and sending weapons to Cuba, to Vietnam, to Nicaragua, trying to instigate revolutions the world over.

We know that is not the case today. The Soviet Union of today is a country that is collapsing internally, a country that may very well be on the verge of civil war, certainly a country that is engaged in severe internal conflict as to whether or not that nation will even remain intact. And we are discussing here today beginning to spend at least $36 billion on a so-called penetrating aircraft to defend ourselves from this nation which is on the verge of dissolution.

That is one argument to be made. But let me present my colleagues with a more practical and pragmatic case against the aircraft. We are engaged in some bipartisan budget negotiations with representatives of the administration. We are doing that because this country is in fiscal crisis. We see the financial structure of this country on the verge of collapse. The savings and loan problem was warning enough. Just yesterday the oldest bank in the city of Washington became insolvent and went into bankruptcy.

We are engaged in these bipartisan budget negotiations because, when you include the borrowing that is going to occur for the savings and loan bailout, and when you back out the funds that are being collected in the name of the Social Security trust fund, you find that this Government has a deficit in excess of $300 billion for fiscal 1991. If the Japanese stopped our line of credit tomorrow, the Government of the United States would be insolvent and bankrupt.

I submit, Mr. President, that given this state of affairs, it borders on the ludicrous to be standing here today discussing whether or not the U.S. Senate should embark on a program of acquiring aircraft that will cost almost a billion dollars per copy.

In this bipartisan budget negotiation, we are contemplating a variety of ways to reduce the Federal deficit, and when you look at the magnitude of the problem, our efforts are rather puny. We have decided that we are going to reduce this deficit by at least $50 billion for fiscal year 1991. That is going to leave us—if we are successful and if you calculate the results fairly and accurately—a deficit of about $250 billion.

Within that $50 billion figure, it is generally conceded that we are going to have to have $25 billion worth of spending cuts.

I say to my colleagues today, they can go ahead and authorize the funding for the B–2 bomber, they can go ahead and authorize funding for all sorts of exotic, superexpensive weapons systems, but in the final analysis, to do that, these spending cuts that are going to have to be made are going to have to come out of domestic spending and they are going to have to come out of entitlements.

Within the summit negotiations, we have already had proposals to reduce our expenditures on child nutrition. We have already had proposals that would cut back on Medicare funding for rural and teaching hospitals. We have had proposals that would raise the premiums, the cost that beneficiaries would have to pay for Medicare.

All of that makes this debate simply beyond the pale. When our economic circumstances are so dire and so drastic that the President of the United States announces a fiscal crisis and

convenes the leadership of the Congress with the leaders of his administration, it appears to me to be beyond the pale to be here today discussing the possibilities of acquiring the most expensive new fleet of aircraft the world has ever seen.

We are discussing making spending savings by increasing the burdens on some of the neediest of our citizens, so dire are the fiscal circumstances that this country finds itself in.

I say to every one of my colleagues in this Chamber who votes to expend more funds today for the B-2 bomber, they better be prepared to go home and explain to the senior citizens of their States why we have decided they have to pay more for health care so that we can shell out another $837 million per airplane for a fleet of aircraft whose mission is, at best, ill-defined and, at worst, nonexistent.

I state these alternatives in these stark terms because that, in fact, is what we are confronting in these budget negotiations. That is what we are going to be confronting on the floor of the U.S. Senate later this year if these budget negotiations are successful.

If we cannot agree among ourselves on the floor of the U.S. Senate to discard highly expensive, exotic weapons systems which have lost their utility, then we will be forced to consider options like reducing Medicare and capital expenditures for hosptials, and freezing cost-of-living adjustments for Federal and military retirees.

Make no mistake about it—and I do not say this as an alarmist, I am saying it as a fact—if we do not act decisively to scale back our military spending on an entire generation of new high-tech, high-priced weapons systems, we are going to be seeking an undeserved sacrifice from those who can least afford it. That is the reality.

The simple fact is the only stealthy thing about this aircraft is its justification—the rationale for spending $800 million per plane simply eludes detection.

Pentagon officials have raised a number of arguments for the B-2 bomber, most of which initially revolved around the role of penetrating bombers in U.S. nuclear strategy. Within the last year or so, the Pentagon has increasingly begun to stress the importance of the B-2 in terms of our conventional strategy as well.

The Pentagon's case for the B-2's nuclear role rests heavily on the expectation that the Soviets will continue to modernize their air defense in the 1990's at the pace established in the 1980's. Considering the grave economic and political difficulties confronting the Soviet Government and its declared intentions to reduce defense spending, this assumption is dubious at best.

Second, the Air Force claimed that penetrating bombers offer the most promise of being able to locate and destroy mobile targets. It is very unlikely that the B-2 bomber would be effective against mobile targets. At a minimum, the task would require an additional investment of billions of dollars for a score of sophisticated and costly reconnaissance satellites to keep mobile targets under surveillance.

Third, supporters of the B-2 argue that the plane would render existing Soviet defenses obsolete and force the Soviets to spend vast sums trying to defend against it. There is little evidence to support this conclusion. Soviet defenses have already been rendered obsolete by United States ballistic missiles and cruise missiles. If the ABM Treaty remains in place and the Soviet's pledge to reduce defense expenditures is carried out, the United States ability to penetrate Soviet defenses will increase over time with the addition of stealthy cruise missiles.

Fourth, B-2 supporters claim that strategic bombers can be used to carry out conventional bombing missions similar to the 1986 raid on Libya. The rationale is fast becoming the Pentagon's favorite argument. However, in the absence of a credible strategic nuclear rationale, a conventional mission by itself is not enough reason to continue the B-2 program. The Air Force already has several different types of aircraft that could all be employed in conventional bombing missions. Finally, General Chain, the commander in chief of the Strategic Air Command, admitted in testimony before the House Armed Services Committee earlier this year that, "because of the value of the B-2, I can't see putting very many at risk in a conventional conflict."

Finally, let me address myself to the Nunn-Warner amendment. With respect to this notion of tough new hurdles, it is obvious smokescreen; moreover, it is virtually identical to the smokescreen placed between the Senate and the realities of this program last year. The argument for the Nunn-Warner amendment is that in order to receive additional procurement money the program must meet a series of rigorous tests. The truth of the matter is that we're setting up a few illusory hurdles so that we can claim we've been tough and skeptical as we proceed to pour tens of billions of additional taxpayers' dollars into this program in search of a mission.

In short, the United States does not need and cannot afford the B-2 bomber. Most of the B-2's nuclear and conventional missions could be handled in a more cost effective manner by other existing or soon to be deployed systems. Even if the cold war were still raging, the B-2 bomber would be a questionable investment of this country's all too scarce budgetary resources. The end of the cold war should simply reinforce this verdict.

Mr. EXON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my friend and colleague, the chairman of the Budget Committee, whom I work very closely with and whom I have worked with on the Budget Committee fashioning a $13 billion cut in outlays for the next fiscal year.

The Senate Budget Committee chairman, if I remember correctly, had envisioned a $15 to $16 billion cut in outlays. As a final compromise that we reached as members of the committee, the recommendation of the $13 billion cut in outlays was accepted.

I submit, Mr. President, to try and put this all in perspective and not get out in the never-never land, the recommendation that I helped pass in the Budget Committee of $13 billion is the largest cut in defense outlays of any entity of the House or Senate or the administration that has come forth with any action thus far.

Mr. SASSER. Will the Senator yield for just one statement.

Mr. EXON. I will yield in just a moment.

I simply say that, therefore, if I am being accused of taking money away from the rural hospitals and the aged citizens in Nebraska, then I think that is a misnomer of the largest magnitude. I am one who has proposed cutting more in defense outlays, and as a member of the Budget Committee we did that. We are going to have trouble meeting that goal, but I think we can, working constructively together.

I simply point out that when the chairman of the Budget Committee votes, as he probably intends to vote, if I understood him correctly, to help out the senior citizens of Tennessee and Nebraska, he is actually saving in outlays for the next fiscal year about $150 million—not the billions and billions and billions that one would be led to believe when we hear the debate on this floor.

So I think it is very wrong for us to not be looking at the overall picture. If you cancel the strategic program, which I think no person is for, the whole strategic program—the B-2's, SDI, Midgetman, rail garrison, black programs, all others that you can think of—it would be only 13 percent of the total defense budget.

I know it is big ticket items, and there is sticker shock connected with these situations. But I happen to feel that for what the B-2 would do to protect the national security interests of the United States—which I assure the Chair is of critical interest to our senior citizens as well—we are trying to unfairly draw a comparison that we

can solve all of our domestic programs if we somehow cancel out the B-2. I do not think that maybe is what many of the speakers in support of this amendment are saying, but I think they are clearly leaving that impression.

Having said that, I am very pleased to yield to my friend and colleague from Tennessee on my time for a question.

Mr. SASSER. I thank the distinguished manager of the bill. I commend the distinguished Senator from Nebraska for the leadership that he displayed in the Budget Committee on the deliberations relative to the defense number that we arrived at.

The distinguished Senator is quite correct that he was very influential in arriving at defense savings in the amount of $13 billion for fiscal year 1991. I wish to commend him for the leadership that he displayed on that particular problem.

But I say to my distinguished friend from Nebraska—and I am sure he is aware of this—the bill that has been reported by the Senate Armed Services Committee has been costed out by the Congressional Budget Office with outlays of $10.3 billion for fiscal year 1991, so it does not conform to the $13 billion savings in military expenditures that the Senator from Nebraska was so influential in getting incorporated into our budget resolution.

Mr. EXON. I thank my friend and colleague, and I hope that we can fashion something to reach the budget level that the Senator and I support in the Budget committee.

But the Senator's question allows me to point out the point that I am trying to make, that if the amendment by the Senator from Vermont should pass, we would be $150 million only toward that goal.

So from that standpoint I do not think, when you look at the figures we are facing, that this would be a very good reason. Although $150 million is $150 million, it is a long way to the roughly $3 billion that we must reach to meet the Budget Committee's recommendations.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Let me inquire about who is in charge of the time and yielding time. I would like to be heard if time permits in behalf of the B-2 amendment.

The PRESIDING OFFICER. The Senator from Maine controls the time in favor of the underlying amendment. The Senator from Nebraska controls the time opposing the underlying amendment, for the substitute amendment.

Mr. EXON. Mr. President, I yield 5 minutes to the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the pending amendment, and I rise in support of the Senate Armed Services Committee's position on the B-2 bomber.

Mr. President, there are two reasons that we ought to build 75 B-2 bombers. The first reason is obvious to anybody who looks at the facts. The building of the B-2 bomber is not made unnecessary by the changes in Europe. It is true that the Warsaw Pact has collapsed. It is true that the conventional threat to Europe has been reduced. But the need for the B-2 bomber is a strategic need, and every piece of information that we have shows clearly that the Soviets have not reduced their expenditure on strategic weapons.

In fact, their developmental programs, their modernization programs, their procurement programs, both offensively and defensively, in strategic weapons continue to move forward at a full bore rate.

So the threat in terms of the nuclear power of the Soviet Union, the threat that has made the Soviet Union a superpower for 30 years, has not been abated.

Mr. President, I hope it will be abated. I hope we will have a START agreement. I hope we will have a reduction in nuclear weaponry that can be verified. But the plain truth is we do not have that today, and we do not have any evidence that the Soviets are reducing expenditures on strategic weapons.

If we do not build the B-2, we will not have a manned bomber that can penetrate Soviet airspace and that can provide the deterrence that a manned bomber penetrating Soviet airspace can provide.

The second reason is economic. We have currently, as a result of our commitment to finish R&D, committed $35 billion to this program. That $35 billion develops the overall revolutionary technology and will give us 15 airplanes, which is not enough to have an effective force. For $16 billion, we can build 75 B-2 bombers, two wings, and have an effective deterrent that is unmatched by any other nation in the world.

Mr. President, that is a lot of money, but we are talking about the ability to do a very big job, and as we look at flyaway costs—and of course we have debated costs, as we should on any weapons systems—think it is important to note that given we have already done all the research and development in terms of building the prototype, given that the technology is now in place, we have reduced the flyaway procurement cost on this weapon substantially, and there is not in development or on the drawing board anywhere else in the world a weapon at anything like this cost that can provide the level of deterrence that the B-2 offers.

So, Mr. President, I want to urge my colleagues, as tempting as it may be to decide that there will never be another threat in the world again, to realize that that is not the case.

In fact, today we are looking at naked aggression in the world. I think it is vitally important that wherever aggression may surface we have sufficient power to protect American interests and American freedom. We need the B-2 bomber. We have developed it, the technology is in place, and it can now be bought at prices that are competitive in terms of what we have paid for our bomber force in the past as a percentage of our defense budget. And the deterrence and safety for the American Nation that this weapon alone can provide is worth the expenditure we are talking about.

Finally, I want to remind my colleagues that no one has provided any convincing evidence to suggest that while things have changed dramatically in the Soviet Union, while the Warsaw Pact has collapsed, that the Soviet Union clearly is continuing to modernize its strategic weapons both offensively and defensively. It would be poor strategic policy and poor economics not to build this vitally needed weapon.

I yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Will the Senator from Maine yield time?

Mr. COHEN. May I inquire how long the Senator from New Mexico wants to speak?

Mr. DOMENICI. I am speaking in opposition. I do not think I need more than 3 minutes, I say to my friend.

Mr. COHEN. I inquire because I think the Senator from Ohio wants to go a lot longer.

Mr. DOMENICI. I am glad to wait. I am learning here on the floor. Thanks.

Mr. COHEN. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. EXON. The Senator from Mississippi wants 3 minutes. Would the Senator from Ohio mind yielding to him before he speaks?

I yield 3 minutes of the time remaining on our side to the Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Nebraska, the leader on this issue, for yielding me this time and also the Senator from Ohio for letting me go ahead.

I wanted to get some brief remarks on the record here today because I

have to confess that I am one of the Senators that has given a lot of thought to not going forward with the B–2 this year. I have talked to a lot of people on this issue on both sides.

I guess I have to say up front that I was concerned and disappointed, quite frankly, when the administration came before the committee and said we can live with only 75 after being told only 2 months earlier we had to have 132 and every one of the 132.

I started asking questions. If we can make that kind of dramatic change in 2 months, just how badly do we need it? After a lot of thought, a lot of consideration, I feel that we should go forward with the level that has been requested by the administration for the B–2 bomber. The United States has relied on the nuclear triad for nearly three decades, and it has stood us in good stead. I think we should continue to have that very strong triad.

If we are going to have and maintain the bomber leg, we must have, in my opinion, the B–2. I would like to point out, for instance, that three former chairmen of the Joint Chiefs testified before the Armed Services Committee that we need the B–2 for deterrence. They represented three services. Admiral Crowe, General Vesey, General Jones, of the Air Force, all testified to that effect.

I see in the Armed Services Committee both in the House and perhaps here on the floor that we are reducing spending. We are not going forward with what we had talked about doing just a year ago on the missiles. We are not going to have Midgetmen. We are not going to have a mobile peacekeeper or MX. We are talking about reducing the number of submarines.

So I started to ask myself, just what are we going to have left? We have learned this very day that the world is not a utopia. It is a very dangerous place.

So I think we have to ask ourselves, and I have asked myself, do we need the bomber? The answer, I concluded, is, yes, we do. I think we need the B–2. The B–2 and the B–1 will not serve us on into the next century. The B–1 was always intended to only be an interim bomber. So we need to move to the B–1.

The Soviet strategic threat is not declining. In fact, it is going up, double the number of mobile missiles this year. They are indicating now that they are not going to continue to build mobile missiles, but they have not said anything about reducing the ones they already have.

So we have a tremendous strategic threat from the Soviet Union. I think we need this bomber because of the recallability, and because it is flexible. I urge my colleagues to go forward with the 75 B–2 bombers.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. COHEN. Mr. President, I yield 15 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, occasionally we have items that, because of our background or our interest and the work we have done here in the Senate in the past, are of special concern to us, and we agonize over them sometimes when we have to make a change or when tough decisions have to be made.

I find myself specifically in that position with regard to the B–2. I literally have agonized over this matter over these past few weeks. I mean that. This involves a new technology. It involves a lot of research, and it involves a new capability. It is the kind of thing I spent a good chunk of my life working on and trying to develop.

Mr. President, some $35 billion will be required to complete this program, and that is what we ought to decide. Are we going to complete this program or are we going to cut our losses at this point? There is about $35 billion left to go on this program.

Mr. President, my distinguished colleague from Texas [Mr. GRAMM] stated just a few minutes ago that we had to be aware that there is naked aggression going on in this world even today, even as we speak here. There is indeed. The choice is: Do we need the additional deterrence the B–2 would add in addition to what we have already with ICBM's, SLBM's, as the distinguished Senator from Mississippi said, and the interim 100 B–1's; that was the way they were looked at—and the old B–52's, which are getting old, and advanced cruise missiles coming along very well? We have a deterrence there that is enormous. It is nuclear and it is strategic deterrence that the B–2 would add another element to. I agree with that.

But the choice is: For that $35 billion to get that additional deterrence, do we need that money more in conventional capability and in manpower? We already have people talking about cutting more than we think we should cut out of manpower. Are we going to have a military pay raise that does not raise the pay, just keeps up with inflation? We have some very, very tough choices here.

Mr. President, after agonizing over this, I rise to support the amendment of my distinguished colleague and friend from Maine, Senator COHEN, and Senator LEAHY. I really have mixed feelings about this. But I in good conscience must take this road.

First, the world military and political situation that is generated in support of the requirement for two new strategic bombers as part of the administration's strategic modernization plan no longer exists. This new world situation is not likely to change back.

CIA Director Webster testified before the House Armed Services Committee earlier this year and highlighted Senator NUNN's excellent speech on the changed threat environment of the 1990's. Changes in the Warsaw Pact threat to NATO will be increasingly difficult to reverse. Furthermore, Webster said, even if a hard-line regime were able to retain power in Moscow, it would have little incentive to engage in major confrontation with the United States. It would be preoccupied with the country's domestic problems, and would be unlikely to indulge in a major military buildup.

That is all well and good. Do I trust the Soviets now? No. I certainly do not yet. I do not want to be the last of the cold warriors, but on the other hand, military threat is made up of two elements. One element is the military hardware, equipment, personnel, the people to use it. The second element is the political will and ability to use it.

Mr. President, that is what is changed. The hardware is still there. Our cities, our military targets in this country are still targeted by those Soviet missiles. They still have their tanks. They still have the hardware. Their political will and ability has gone to nothing at the moment.

So are we worried right now? No. We are not. But I will feel much safer when we have this balance reduced through arms control negotiations and verifiable arms control negotiations. Then perhaps I will feel we can really not worry that much about our overall military posture.

But right now I think we still do have to be concerned about all elements of warfare in the world in which we live. Webster said that even if a hard line regime were able to retain power in Moscow, it would have little incentive to engage in major confrontation with the United States, and new leaders would be largely preoccupied with the country's urgent domestic problems and would be unlikely to indulge in a major military buildup.

Second point, Mr. President. Current and future defense budgets cannot support continuing modernization of all three legs of the strategic triad, at the expense of conventional and manpower.

In my opinion, the introduction of the B–1B in 1986, when combined with the new stealthy advanced cruise missile and new short-range attack missile, the SRAM, will provide an adequate level of deterrence required for the air-breathing leg of the triad, even in a post-START environment. This is consistent with our need to begin shifting the emphasis of the third leg of the triad to air-launched cruise missiles.

I do not know how many Members have gone into the capabilities of the

advanced cruise missile designs, but they are almost miraculous vehicles that are coming on very well.

Mr. President, the Air Force has sold the B-2, basically, on the SIOP mission, the nuclear mission. As much as I have talked over the last few years trying to get them to emphasize the conventional bomber, they have not been really willing to address that head on, and in every briefing we have it still includes the SIOP mission and what it can do on that.

I appreciate that. But the strategic triad, to me, fills out that bit of additional deterrence that might come from the B-2, in addition to all the other things I mentioned just a few moments ago, where we have such a preponderance over the Soviets in strategic programs, our nuclear delivery capacity, SLCM's, ALCM's, the whole works. When I have to make that choice between the conventional and manpower, I have to opt for the latter.

Air-launch cruise missiles, and the B-1, even though it is not quite as capable of penetrating as the B-2 might be, is still a very effective bomber.

The dramatic changes that are occurring in the world require revised military strategy that emphasizes conventional capability. Senator NUNN stressed that, about what the changing world is meeting in the way of military strategy. We do not have a clear definition yet from the Pentagon, so we drew up our own definition this year, and the chairman brought that out on the floor in his excellent speeches.

To develop a new military strategy that reflects the changing world, and threat, which at the same time recognizes the fiscal realities that defense budgets are facing, Mr. President, requires some very tough choices. It means that we have to prioritize the requirements for new weapons systems across all the services. Those are choices DOD has either been unable or unwilling to make in the past. We still need a strategic force. I do not want to cut back on that strategic force. But with the SLBM's and ICBM's also, what we will have in the B-1's, cruise missiles, and even the old B-52's, we can obliterate the Soviet Union from a nuclear standpoint; future wars or brush fires or whatever are likely to be conventional, and that is where we are weak.

So the question is, whether we need the strategic deterrence the B-2 offers? It would be substantial, but do we need that added to those other capabilities, or do we need more emphasis on conventional? Do we need mobility, ready conventional forces?

Yes, we do. And they will be cut back so we can have the B-2 instead.

Those are tough choices, and we have to prioritize and decide those tough choices.

One of the problems here is the Air Force has let costs get away from this whole program, and they have kept it quiet for a great deal of time. My belief is that if this kind of prioritization is objectively done, taking into account the changes in threat and dwindling defense budgets, the requirement to acquire and pay for a second new strategic bomber, as good as it might be if it proves out, will move well down on my priority list.

I believe that DOD, in implementing a new military strategy in the face of greatly reduced defense budgets, will have to emphasize conventional capability if we are to meet potential regional threats. Unfortunately, the modernization of conventional forces continues to lag behind our strategic forces.

The Persian Gulf today was mentioned on the floor as one of our problem areas, and that is why we need the B-2. That is not what we need to go against the situation in the Persian Gulf.

I further remind my colleagues that during the past 10 years we have already modernized all three legs of the triad forces; we developed and deployed the MX ICBM, the Trident nuclear submarine with the new D-5 ICBM, the B-1B, which is not as invulnerable as the B-2, but is very effective nevertheless; we have the ALCM's, air launch cruise missiles; and we have upgraded the Minuteman ICBM force and the advance cruise missile and the SRAM 2 nuclear missile, which I spoke of earlier.

Also of great importance is the fact that as defense budgets continue to decline, adequate compensation, just plain old mundane pay, for the men and women in uniform is another matter that is going to require some prioritization over unlimited procurement of new and sophisticated weapons systems.

All my colleagues know, our military personnel remain the bedrock of our defense readiness, whatever else we have. In fact, we may have already reached the point where we may have to really prioritize between military pay and military equipment.

I will be offering an amendment later in these deliberations that will ask my colleagues to do that, to put a higher priority on military pay. What it will say is, we are not trying to make a big advance in military pay, but are trying just to keep up with inflation and not let the people get farther behind than they have become accustomed to being over the last 10 years or so.

In order for our military personnel to receive a pay raise in fiscal 1991, that will keep pace with inflation, an additional $300 million in outlays will have to be found within the investment accounts. I hope we can do that.

Mr. President, my colleagues know that I have been generally supportive of the B-2 program, emphasizing its potential conventional capability, rather than strategic role. My colleagues also know that I have often expressed serious reservations, both publicly and privately, about the limited contribution of manned bombers to strategic deterrence, or their potential combat utility if deterrence fails and bombers are launched following an initial exchange of nuclear missiles.

I do not think we would ever make a first attack with a B-2. If the ICBM's are going off and the SLBM's are going off, are we that likely, even on the SIOP mission, to send in a B-2 after that is already going on?

However, until last year, my criticism of the B-2 program centered on the failure of DOD to declassify cost and schedule data, and once declassified, concern over escalating cost and potential technical problems, mainly aerodynamic concerns and low observability.

Last year, after the program came almost completely out of the black world, I led the fight in the Armed Services Committee to slow the program down and fly-before-buy, a concept our committee has reinforced and expended in this bill, which I support. Nevertheless, this time last year, my position was that if the B-2 really was operationally effective, if it really was stealthy and predicted to remain so for the foreseeable future, I was prepared to support procurement of the minimum number of B-2's required to provide a viable force of heavy bombers for use in a conventional or strategic role.

Now, 1 historic year later, a new military strategy is required that will meet the national security goals outlined by the President in his annual national security strategy report to Congress. Furthermore, this new military strategy must be achievable within the budget resources available for defense.

So, Mr. President, given these criteria, I can no longer support increased procurement for support of the B-2 program, because it has gotten too expensive to permit us to do some of the other things in conventional and manpower that we find necessary to do.

This has not been an easy decision for me to reach as a pilot, as a combat veteran, and given the new dimension that stealth technology may offer to air warfare as a member of the Armed Services Committee and Strategic Subcommittee charged with validating DOD weapons systems requirements. Review of the facts leads me to the conclusions I have expressed earlier. To reiterate, I believe that the world military and political situation that generated and supported the requirement for two new strategic bombers as

part of the administration strategic modernization plan no longer exists.

Current and fiscal defense budgets cannot support continuing modernization of all three legs of the strategic triad, and we are behind in our conventional forces. The dramatic changes we have occurring in the world require a revised military strategy which emphasizes conventional capability.

Mr. President, as I indicated starting out, I have agonized over this and have really done a lot of soul searching on it, and it comes down to the basic choice I outlined when I started out and that is basically that we have about $35 billion at risk here if we continue with the B–2 program. We are behind on conventional, we are behind on manpower, and how we should be treating our people and that $35 billion to me is going to be better spent to enhance our conventional and our manpower programs and not for the admitted additional capability that the B–2 would give to our already very substantial nuclear deterrent, the ICBM's, SLCM's, ALCM's, the advance cruise missile, and all the rest of them.

Mr. President, I urge my colleagues to weigh these facts in reaching their own decisions. It has been a hard one for me. When they do weigh these facts, I am confident they will support the Leahy amendment and the Cohen amendment, and vote to terminate further B–2 procurement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield to the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. HEFLIN. Mr. President, an old saying, an ounce of prevention is worth a pound of cure comes to my mind as we look at the defense posture of this Nation today and in the future.

Many say the threat to our Nation is greatly diminished. Assuming that, then I think that we have an opportunity in the next year, perhaps 2 years, to move foward in technology and in preparedness that can eliminate many, many years ahead of us relative to expenditures on armed services.

If we at this time take advantage of our opportunity and make ourself strong to the extent that that strength can last for decades and decades, then I think we will be doing a great service for peace in the world and for the defense of this country against potential threats that may occur in the future.

So I say let us take advantage of our opportunities, and to me one of the opportunities we have today is to move forward with the B–2.

I and many of my colleagues in this Chamber can remember the transition from propeller-driven aircraft to jets. That transition was truly revolutionary and the United States led the world. The B–2 bomber is no less a revolution in aircraft technology, and the United States is still leading the way. I congratulate the Air Force and those Members of this body who have worked so hard to bring the B–2 to the production stage.

Mr. President, the B–2 is the second part of a cohesive strategy to breath life back into the manned bomber portion of our strategic Triad. The B–1 was step 1. But, we all knew when the B–1 came on line that it would not be able to penetrate against a constantly improving Soviet air defense network forever. A second, more capable bomber would be required. That realization resulted in the B–2.

I fear that we will now fall off that strategy by failing to continue on with the B–2. Penetrating manned bombers have been at the core of our strategic deterrence for over 40 years. They carry a sizable portion of the U.S. nuclear arsenal. Because they have a crew onboard, they perform missions that cannot be accomplished by SLBM's, ICBM's, or cruise missiles. Manned bombers can be recalled after launch, redirected in flight, react to unexpected defenses in real time, and deliver both nuclear and conventional payloads to any number of targets. Only bombers have these important operational characteristics.

Bombers are the only part of the triad that has been operationally employed since World War II. Even though bombers were central to nuclear deterrence during the days of the Korean and Vietnam wars, we did not hesitate to use them for conventional missions. And, should the need arise again, we will have a much more effective bomber in our inventory.

Mr. President, much will be said concerning the B–2 Bomber over the next several weeks. I urge my colleagues to remember that we must judge the B–2 by its contribution to both the long- and short-term national security interests of the United States, not just by its cost. By that yardstick, the B–2 is an enduring military advantage we cannot afford to throw away.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield to the Senator from Minnesota 6 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 6 minutes.

Mr. BOSCHWITZ. Mr. President, my attitude on defense is somewhat different than that of my friend from Ohio. My attitude is not to have conventional first but rather to have technology first. I believe that our advantage in defense is technology. I believe that we are not going to have more men and women under arms than will our opponents. I do not think we are going to have more tanks than our opponents will. I do not think we are going to have more field peaces. Our advantage is technology.

I think what happened in the world during the 1980's, the movement toward democracy, was in a large measure influenced by the fact that we moved forward in technology in our defense and, furthermore, that we moved forward in defense in quantitative terms as well. There was a buildup in defense during the eighties in this country both quantitatively and technologically. But technology is where this country has its advantage.

The Russians were pressed. They were pressed to the wall. They simply could not stand the pace. They spend 14, 15, 16, some people even said 20 percent of their gross national product on defense. That is a terrible overhead to impose upon society because really defense is part of the overhead of society, a necessary part.

We are now somewhat over 5 percent of the gross national product being spent on defense. At the end of this 5-year program that the budget summit is going to come up we may be under 4 percent of our gross national product on defense.

I think we can afford that. I think we must afford it, and that our principal advantage again and our principal pressing point must be technology. That is where our greatest advantages are.

When President Reagan came back from Reykjavik and did not make a deal on the SDI, I thought that was fine because we were moving forward and they were unable to move forward in that field of very high technology. In the technical technology of Stealth, as the distinguished chairman of the Armed Services said, "In sum, stealth worked." He said that earlier today in his speech.

One of my constituents, Mr. President, is a fellow by the name of Bill Sweetman who has written a book about the Stealth bomber and who works for Jane's, which catalogs all the world's planes, all the worlds ships, and so forth. He, too, after great study quite agrees that, in sum, Stealth works.

Other Stealth aircraft that we have work as well and indeed they could be a great asset to us in Iraq because of the situation in the Persian Gulf and the inability to get certain type of ships into the Persian Gulf.

The B–2 would make obsolete hundreds of billions of dollars worth of air defenses that the Russians have put up. We in this country have not done much in air defenses. The Russians have done an extraordinary amount, and while this is a very costly bomber indeed, and my cost $63 billion and perhaps in the end even more nevertheless on the basis of leverage we are

going to make obsolete hundreds of billions of dollars of Russian air defenses that they simply are unable to replace.

So I think that the B-2, the advanced technology with the B-2 will drive them to the bargaining table. Yes, it is costing more than we anticipated at this time. I predict it will cost even more now than we are now told because the opponents will delay it, and delay it, and that will add to the cost. Perhaps we will build fewer than we now are talking about, and that too will add to the cost. But in the long-term the advantage of the U.S. defense is in technology and that is the essence of B-2, that is the essence of Stealth, and that is why I will support it, and I will support it at 75 planes, or in the event that the Secretary of Defense raises that number, I will probably support an increased number. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield to the Senator from New Mexico 3 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. NUNN. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Ten minutes, twenty-seven seconds.

Mr. DOMENICI. Mr. President, may I first on my time ask the distinguished chairman a question quickly. In fact I have two.

Mr. NUNN. I am glad to yield for a question.

Mr. DOMENICI. Mr. President, let me ask first, if we approve continuation of the B-2 as proposed by the committee, if we do that the Senate still has to go to conference with the House. What is the B-2 status in the House bill?

Mr. NUNN. The House bill basically allows $9.9 billion or $9.6 billion more to be spent and will end up terminating the program after a total of 15 have been spent.

Mr. DOMENICI. So you have to go and negotiate with them.

Mr. NUNN. Correct, and they have essentially terminated the program.

Mr. DOMENICI. My second question is, it is true, is it not, that while we see a great deal of commotion in the Soviet Union regarding their economy, their politics, their empire, their conventional control over the satellites, that for some reason their strategic nuclear capability is not only intact but continues to be modernized? Is that a true statement?

Mr. NUNN. I think that is a true statement.

Mr. DOMENICI. Does the Senator have any idea why that is happening?

Mr. NUNN. I say to my friend from New Mexico one can only speculate. But my feeling now is that it is plain to the world that the Soviet economic system is not on the rise in the world. In fact, it is collapsing. It is also plain that their philosophy of Marxism is not being followed, even by their own leadership. It is plain that their conventional force posture in Eastern Europe is basically coming down very significantly. Finally, it is plain that the only symbol of their superpower status is their nuclear weapons force, and while I believe they are willing to negotiate, they are not willing to be philanthropists.

Mr. DOMENICI. Does the Senator have any doubt that if we had not seen the changes, those visible changes, in the Soviet Union, and they had the exact same strategic power that they have now—which I think is about the same as it would have been had the empire not fallen—do you have any doubt that we would be building the B-2?

Mr. NUNN. The Senator is correct on that. I think it would be much more support for the B-2.

Mr. DOMENICI. Mr. President I think that is exactly the case. I do not think there is any question that we would not have this debate. So I am going to support the continuation of the program because it appears to this Senator that, while there have been great changes in the Soviet Union, the one thing that we should be continually concerned about that has really been at the forefront of our deterrent concerns in the past is the Soviet's strategic nuclear capability. I do not believe anyone can tell us they have changed one iota. If it has not, it seems to me our goal is, over time, to see that it is changed and changed substantially. I believe the B-2 has the capability of adding to our deterrent capacity in that regard.

Mr. President, in our consideration of the fiscal year 1991 Defense Authorization Act, the Senate is debating truly historic legislation. As the first such defense bill to be crafted in the new post-cold-war era, this act will set the guidelines for future legislative actions we take on our country's defense posture now that the threat of war between East and West is lower than at any time since the late 1940's.

The freeing of Eastern Europe from Soviet occupation and Communist domination, as well as the impending reunification of Germany, will be long remembered as among the most important events of this century.

The collapse of communism has meant an end to the Warsaw Pact as an operational entity. This, in turn, has had a profound impact on the military environment.

Today, at least, NATO no longer needs to fear a surprise attack launched from Central Europe. This fear has quite simply vanished along with the unlamented Communist governments. And current Soviet leaders have no incentive to raise military tensions—not when they are desperately trying to rescue their country's wrecked economy and simultaneously deal with growing ethnic and social tensions.

These massive changes in Eastern Europe have led many to conclude that the United States can now afford to spend less on defense than had previously been anticipated. I agree. But I also agree with those who say it is of the utmost importance that we manage the defense build down carefully so our conventional and strategic military capabilities are not harmed.

Indeed, I would say that the most important defense-related issue before this Congress is precisely this: How to begin the orderly build down of our Armed Forces now that the cold war is over and the threat of conflict with the Soviet Union has receded.

A moment ago I said we were in a new era. I expect this new era to be marked by a U.S.S.R. that probably will be considerably less threatening to the West than has historically been true. But in the new era, as in the old, our relationship with the Soviet Union will remain central to our national security. And, because of this, we must not move to conclusions about the U.S.S.R. too quickly.

It is entirely possible that the current turmoil in that country could give rise to a new, hardline leadership that reverts to the former policies of internal repression at home and confrontation abroad. Indeed, only too recently confrontation was the guiding principle behind Soviet dealings with the West.

A mere 10 years ago the Soviets were installing SS-20 intermediate-range missiles in Europe in an effort to intimidate NATO and compel our allies to loosen their ties with the United States. Two years ago 100,000 Soviet troops in Afghanistan were engaged in a brutal attempt to consolidate in power a Marxist puppet regime. And, closer to home, last year the Soviets were helping the Sandinistas to consolidate their power in Nicaragua and support leftist guerrillas in El Salvador.

Yes, the rise of a new Soviet leadership and the implementation of less threatening policies have eased the tensions that were so prevalent a decade ago. But this could quickly change, and, in any case, the U.S.S.R. will continue to be the only power on Earth with the potential to destroy us.

So it is important that we decide how to maintain prudent defenses in a period of apparent relaxation of tensions.

As we debate the defense authorization bill, I want to remind my colleagues that all evidence points to the conclusion that the Soviets are aggressively modernizing all of their strate-

gic nuclear forces. These are the very weapons which would be targeted against the United States if a nuclear war were to erupt.

Because of that Soviet modernization, it is imperative that we also modernize our triad of land-, air-, and sea-based weapons to maintain the effectiveness of our deterrent forces. On the air side, this includes meeting the Air Force's need for a manned, low-observable penetrating bomber, that can carry out three major tasks: To preserve strategic stability, to be able to defeat Soviet defenses of the late 1990's and beyond, and to be able to find and destroy mobile missiles.

The B-2 will be able to perform these tasks. Our current bomber fleet consists of B-52, FB-111, and B-1 aircraft. The B-52 fleet was built between 1954 and 1962. Less than 200 of them are still in service, and they are beginning to wear out physically; they typically are older than the personnel who fly and service them. The FB-111 bomber is also aging, and it is projected that none of them will be used as strategic bombers by 1991. There is also the more modern B-1, but it does not incorporate the advanced Stealth technology of the B-2 and cannot function as a manned, penetrating bomber to the same, needed degree as the B-2.

In short, the B-2 adds a technologically superior bomber to our deteriorating strategic air capability. It does this by being much less susceptible to detection than any other aircraft by virtue of its unique design and the materials from which it is built. And it combines this with the capability to fly 10,000 miles when refueled and carry a payload of about 50,000 pounds.

The B-2's offensive capabilities have been much discussed. But what is also of great importance is the fact that if we have 75 B-2's, as proposed by the Secretary of Defense, we will force the Soviets to decide whether they should spend billions of rubles on air defense in an attempt to overcome the B-2's advantages.

The Soviets have invested $350 billion in their air defenses and I strongly suspect that they cannot sustain the level of spending required to update or replace it. The B-2 thus dramatically demonstrates our determination to use our technological superiority to modernize our deterrent force. And, at the same time, it also allows us to be in a position to use that technology as leverage that may help bring about arms reductions in addition to those that are likely in a first START agreement with the U.S.S.R.

Continued funding of the B-2 also serves at least four other purposes in addition to those of maintaining our deterrent force and capabilities, and helping to make obsolete the U.S.S.R.'s truly enormous investment in air defense systems:

First, it helps us maintain our technological superiority. Many of the systems comprising the B-2, such as its detection-evading and composite technologies, are on the leading edge of their field. With our Nation facing ever more stringent high-technology competition from abroad, it is vitally important that we maintain our leading role in these, as well as in other, areas. The B-2 helps us to stay ahead.

Second, the B-2 can be used for conventional power projection in various areas of the world. This will be increasingly important as we cut back in the future on the number of aircraft carriers in operation and the number of U.S. bases overseas.

Third, thanks to its low-observable qualities, the B-2 can be used with a much smaller expectation of losses than would be likely to occur using currently available aircraft.

Fourth, unlike cruise missiles, which some believe are sufficient for future Air Force requirements against the Soviet Union, the B-2 can be used again and again. And, unlike a cruise missile, it can be recalled at any time while in flight.

I note that the Senate Armed Services Committee, led by Senators NUNN and WARNER, voted to approve the administration's request to build two new B-2's in fiscal year 1991. The committee, under their leadership, has also enunciated a "fly before buy" principle in its support of an incremental approach to B-2 acquisition. I strongly agree with this principle.

We need to condition funding for the B-2, and any future decision on its serial production, on the outcome of stringent performance tests. This will guarantee the taxpayers that there will be rigorous testing of the B-2 prior to a major commitment to begin low-rate initial production.

Yes, the B-2 is expensive. We have already committed about $30 billion to the B-2 program. It is estimated that the 75 aircraft the Secretary of Defense has requested will cost about $63 billion.

But we need this aircraft if we are to maintain our defenses at the required level. To kill the B-2 program at 15 aircraft—the number currently in production—as some of our colleagues both here and in the House wish to do, would result in a self-inflicted wound on our defense and technological capabilities.

Mr. President, I oppose any attempt to kill the B-2 program. I believe this aircraft is needed to help ensure our Nation's defenses.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, may I inquire, do I have 17 minutes left?

The PRESIDING OFFICER. Seventeen minutes and 10 seconds.

Mr. COHEN. I yield 5 minutes to the Senator from Oregon.

Mr. HATFIELD. Mr. President, for nearly a year now this country has been looking for the peace dividend earned from the crumbling of the Warsaw Pact. Earlier this week, the House took a step toward realizing that dividend as the Armed Services Committee moved to scrap the B-2 bomber.

In explaining the House action, LES ASPIN said that "killing the B-2 was a decisive move to bring the defense budget in step with fiscal reality." He is right—terminating the B-2 bomber program will save the taxpayers from a commitment to a costly construction project. But Chairman ASPIN could have shortened his explanation of the committee's action: He could have just said that terminating the B-2 bomber program brings the Department of Defense in step with reality. Period. And now it is time for the Senate to have its own reality check.

It is tempting to avoid a realistic assessment of the B-2 bomber, given the drama which began when the administration asked for 132 B-2 bombers which could penetrate Soviet airspace and destroy mobile targets after a nuclear exchange had occurred. Never mind that we already have bombers to undertake this dubious mission, not to mention air-launched missiles.

This melodrama became all the more captivating when the administration later recognized that our country's relationship with the Soviet Union had been dramatically altered and reduced its request to only 75 planes. And the plot thickened when the generous offer by the administration to halve its request seemed so magnanimous that our Armed Services Committee has rushed to embrace it.

Now we are to the best part of the script: The debate we are now conducting has been billed as the one most likely to cause disagreement between the House and the Senate, This great institutional division. We are all counting votes and watching for shifts in each other's position.

The media is hanging on our words, waiting for us to cast our votes. Indeed, this vote will signal Congress' resolve to reforming a Pentagon which seems to have trouble thawing itself after the cold war. Yes, this is exciting, Mr. President, but it is also completely out of touch with what is happening around this country. I do not know about the rest of my colleagues, but I do not expect that many Americans woke up this morning wondering how many B-2 bombers the United States would buy today. The people of this country are not much interested in our little drama.

The people do not want to hear that the Senate approved a proposal to spend billions on a plane which has not been tested and has a dubious mission. The people at home certainly do not want to hear how we so skillfully crafted an agreement to spend billions on dozens of planes which are designed to drop nuclear bombs on Soviet citizens.

The people in my State want to see the peace dividend in their paycheck. They want to hear how we are going to clean up the S&L mess. They want to know when Congress is going to resolve the deficit crisis and still find enough money to clean up toxic waste scattered across this country.

So before we get too busy assessing our power bases and get too caught up in this Pentagon passion play, I hope that each of us will take some time to notice what is happening around the world and here at home. The Soviet threat has radically diminished. We have an entirely new perspective on the world and are looking beyond the Cold War mentality and the confrontation Foreign Policy and containment Foreign Policy. If we buy these planes we will only have succeeded in encouraging the Pentagon to continue its big-spending search for new conveyers of death and destruction. We have a choice to make. Do we continue playing the same roles we have always played, making token reductions in the military machine while portraying ourselves as watchdogs of the Treasury? Or do we decide to cut to the heart of the problem of unnecessary Pentagon spending, before it is too late? Each Senator here today has to make a decision. I hope that my colleagues will join me in voting with Senators COHEN and LEAHY to terminate the B-2 program. We stand to save the taxpayers thirty to forty billion with this option. That kind of money is important—ask any member of the budget summit negotiating team about this kind of money.

If termination of the program is unacceptable to some Senators, I urge them at the very least to apply the same basic standards of performance testing before we make further purchases. The Nunn-Warner amendment does not even subscribe to the common-sense notion that we should know what we're buying with $65 billion. We know that the technology of the B-2 is totally new and still being tested. We do not know that the technology of the plane can complete the mission. The Cohen first-degree amendment is entirely consistent with the testing standards set for most other new programs in this legislation.

No, the world is not yet safe. Wars still rage—indeed a madman in Iraq is threatening stability in the Middle East at this very minute. But having all the B-2 bombers in the world will not affect these new threats to our security. And Stealth bombers certainly will not address the problems our Nation faces here at home: Hunger. Unemployment. Homelessness. Drug abuse. Look at the headlines: Children are selling crack.

Murders are going up. Health care is being rationed. Tell me how spending as much as $1 billion on a plane is going to help us address these problems?

Whatever you do, don't tell me that these crises represent different security threats and are related to our actions here today. They are related—because every dollar we waste on Pentagon hardware is stolen from the children of our country.

If we approve the purchase of one more B-2 bomber today, each and every one of us will have to go home and explain how the Department of Defense is deserving of exotic toys while our domestic programs go without. And with that thought in mind, suddenly, our choice shouldn't be so difficult.

I appreciate the 5 minutes that has been allotted to me.

(Mr. LAUTENBERG assumed the chair.)

Mr. COHEN. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, today I rise to address the underlying U.S. nuclear strategy that has led President Bush and Secretary of Defense Cheney to recommend further procurement of the B-2 bomber.

The question of how many B-2 bombers should be authorized for procurement is directly related and should be directly related to what the nuclear strategy of the United States is. What nuclear strategy are we pursuing and what nuclear employment policy does that strategy require?

For the last 40 years, Mr. President, a principal aim of U.S. nuclear strategy has been to deter conventional invasion of Western Europe by armies of the member countries of the Warsaw Pact. It is my contention, Mr. President, that because of the revolutionary changes in Eastern Europe and the Soviet Union, that mission of nuclear strategy—which is to deter a conventional invasion of Western Europe—may no longer be necessary or may require a significantly reduced force of strategic arms to accomplish that objective.

Indeed, former Secretary of Defense Schlesinger in testimony before the Foreign Relations Subcommittee on European Affairs, which I chair, made the very same point.

Let us imagine, Mr. President, the impact on the conventional military balance of these events in Eastern Europe and the Soviet Union. In the first place, it is now inconceivable to almost everyone involved that the countries in Eastern Europe would participate in any Soviet-conspired invasion.

Soviet troops are not moving west; they are moving east, and they are going home. I would note parenthetically I suspect they would be going home even if we were not negotiating with them, because they have other problems.

This brings me to my second point. What home are these troops going to? In my view, over the next several years, there simply will not be a Soviet Union as we have known it for the past 70 years. Every informed source in this Government, in this administration, with whom I have spoken—I have spoken to many—as well as those outside, point out that the likelihood of the Soviet Union consisting of the republics and the relationship among the republics that now exists in the Soviet Union is highly, highly unlikely.

Mr. President, that brings me to the next point. In the testimony before our Subcommittee on European Affairs, former National Security adviser Brezinski and other experts predicted the collapse of the Soviet Union. I must simply say that there is no prospect of a successful Soviet Union invasion of Europe. Yet preventing that possibility is still the principal aim of our nuclear strategy.

Our strategic nuclear deployment policy, known, as my colleague from Maine well knows, as the Single Integrated Operational Plan [SIOP], and our procurement of strategic arms no longer fit and meet the need.

There is another factor at work as well. The United States and the Soviet Union are nearing completion of a strategic arms accord, the START agreement, that will involve significant reductions in the strategic nuclear arms of the Soviet Union.

The 23 countries of NATO and the Warsaw Pact are nearing completion of historic accords, creating a balance of conventional forces, the so-called CFE agreement, that require drastic reductions in the conventional armaments of the Warsaw Pact as well as the Soviet Union.

Mr. President, if the START Treaty and the CFE Treaty are completed later this year as most hope—all hope and most expect—the current requirements for the strategic nuclear arms and plans for their use could change significantly.

In other words, Mr. President, the revolutionary changes in Eastern Europe and the Soviet Union, and the prospects for deep reductions in conventional and strategic forces, may provide us with an opportunity to revolutionize our nuclear strategy and nuclear deployment plans.

Indeed, the existing SIOP has become a critical part of the B-2 debate. Why? Because the Command-

er in the Strategic Air Command has testified to Congress that a principal rationale for the deployment of the B-2 bomber is to permit the Armed Forces of the United States to carry out the SIOP. Because our SAC Commander made this argument I decided it was important to receive a briefing on the existing SIOP to see if that statement was justified.

So, 2 weeks ago I spent several hours at the Pentagon meeting with representatives from the Office of Secretary of Defense, the Joint Chiefs of Staff, and the people who make up this SIOP—the Joint Strategic Target Planning Staff.

Without getting into any of the highly classified details in that briefing, I have concluded that the B-2 bomber is not required to carry out the existing SIOP. But more important, I believe fundamental changes can be made in the SIOP and the U.S. nuclear strategy. The current plan simply does not reflect the revolutionary changes in Eastern Europe; nor does it reflect the possibility of deep reductions in strategic arms and conventional arms.

I am aware that the Secretary of Defense is undertaking a review of U.S. targeting policy, which may lead to a new SIOP. But I fear that without the President's involvement this review may not take into account the full possibilities for changing U.S. nuclear strategy and targeting policy.

Mr. President, last year I voted to terminate the B-2 program because I did not believe it was necessary to accomplish our existing strategy, as my distinguished colleague from Maine, Senator COHEN, so eloquently pointed out earlier today.

But now I believe it may be possible to change that strategy and the SIOP which is developed to support that strategy. If so, we may simply not need the B-2 bomber to carry out our nuclear strategy of deterrence.

Therefore, I do not believe we should spend billions of dollars to buy additional B-2 bombers until we see if a change in strategy and a new SIOP make the B-2 unnecessary.

At the same time, I do not believe that the current draft of the START Treaty will need to be changed if the Congress kills the B-2. The START Treaty most certainly facilitates the deployment of penetrating bombers because their weapons are heavily discounted. However, the current draft of the START Treaty most certainly does not make it imperative to deploy penetrating bombers.

If we had unlimited funds, under START the B-2 bomber would be the right weapon to deploy. But the question at issue today is not the START Treaty; it is whether this Nation can afford to spend the billions of dollars needed to deploy a bomber whose mission is redundant under current strategy and whose mission may be unnecessary if our nuclear strategy can be changed in the weeks and months ahead.

Mr. President, I recommend to my colleagues for their bedtime reading my statement, and particularly the portion I believe speaks to the issue of whether or not the START agreement requires, in effect, a B-2 bomber.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, might I inquire of the Senator from Georgia as to whether he has additional speakers?

Mr. NUNN. I would have to say to the Senator we do. We have the Senator from Virginia. I have some remarks. I think the Senator from Kansas has some remarks.

Mr. COHEN. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I would like to direct some questions to the floor managers of the bill. This really deals with the Cohen amendment, that is the second amendment that we will be voting on.

It seems to me the Air Force record, as far as producing the bombers without flaws, is not a very good one.

We are all familiar with what took place with the FB-111, and now the B-1.

Will my colleague please give the arguments why we should not support the Cohen amendment, which will be the oncoming amendment here? Sure, it might add a cost to it, but the cost will be added anyway if this plan has major flaws like we saw in those other two bombers that I mentioned previously.

Mr. NUNN. Mr. President, the Senator has asked a good question here. The answer to that question is, that we, Senator WARNER and I, believe that by our fencing we have taken care of the dangers the Senator points out because we do not allow procurement money to be expended at all for the two new B-2's until such time as we get the initial stealthy results. They have to be positive. Then we release only 15 percent of the procurement money for the two B-2's, which is a total of $300 million. That money is released at that stage. That is at risk if we get initial results that are positive and negative results on the later tests which occur next year. Both initial and other tests have to be positive before we release any more of the procurement money.

So the main difference between the Cohen amendment and the Nunn-Warner amendment is Senator COHEN does not allow the release of that initial $300 million.

But let me add this. He puts an additional $900 million in there that can be spent anyway, whether results are positive or negative.

I submit there is more money really at risk with a failed program under the Cohen amendment than there is under the Nunn-Warner amendment. What we do, if the $300 million is spent and they have positive results initially and later, from a later test, then we allow the entire procurement amount to be released, but only after positive results on both.

What that does is save $4.7 billion over the lifetime of the program.

The PRESIDING OFFICER. The Senator from Maine has 4 minutes remaining. The Senator from Rhode Island has used his time.

Who yields time?

Mr. NUNN. Mr. President, does the Senator from Rhode Island understand that answer? Because it is the key to the difference in this amendment. I know what the Senator from Maine is shooting at. I do not think he has been able to do that the way the amendment has been drafted. It increases the cost of the program. We believe that we avoid that increase in the cost of the program by letting that money be released at the end of the Stealth test which has to take place next year. That keeps the program on schedule.

The amendment of the Senator from Maine throws the program 1 year off schedule even if the results are successful and therefore adds about $4.7 billion in the program cost. In my opinion another $4.7 billion added to this program cost will just about defeat the program.

Mr. WARNER. I want to follow on what the distinguished chairman said.

This is the Nunn-Warner amendment, carefully crafted to give the Senate and the Congress insurance, and the American people, in this program. A vote for Cohen does away with it, because the Cohen amendment simply focuses on production funds. What the Senate I think is about to do unanimously is support the Nunn-Warner and then turn right around and undo what it has done today.

Mr. NUNN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 30 seconds.

Mr. NUNN. Mr. President, how much time does the Senator from Maine have remaining?

The PRESIDING OFFICER. The Senator from Maine has 3 minutes and 50 seconds remaining.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, the time will be charged equally to each of the sides.

Mr. NUNN. Mr. President, I think we will have some rather clear votes today. The first vote is going to be the Nunn-Warner amendment. If anyone is worried about the testing of the pro-

gram and they really want to support the B-2, if it works, then they basically should vote for the Nunn-Warner amendment. That is the first vote.

The second vote is the Leahy-Cohen amendment. If anybody wants to terminate the B-2 program, that is the amendment to vote for. That clearly terminates the program. So if you are against the B-2, whether it works or not, if you are not worried about START, you are not worried about going back to the drawing board on arms control, if you are not worried about conceding the vulnerability of United States airspace but allowing the Soviets to have rather invulnerable airspace, as far as bombers are concerned, then you would vote for that second amendment.

The third amendment is the most difficult amendment because there are times in which I would agree with the principle the Senators from Maine is espousing. He is basically saying hold up production money until all the Stealth testing is taken into account.

We believe that that amendment would add $4.7 billion to the program. That is the overall cost of it over a period of time.

We do not believe, Senator WARNER and I, and I believe most of the members of our committee, do not believe that this B-2 program can stand that much additional program cost over the lifetime. I do not believe that we are going to be able to keep seeing the costs go up and still have that program have any chance of remaining alive.

What we do in both the Nunn-Warner amendment and the Cohen amendment is to authorize $1.75 billion in research and development. The amendments are parallel on that. Nunn-Warner authorizes $1.99 billion in procurement. The Cohen amendment authorizes $942 million in procurement, but there is a big difference because the Cohen amendment's $942 million is at risk no matter what happens to the test.

If the test results are negative, it Stealth does not work, the Cohen amendment still permits that $942 million to be expended. We do not permit over $1.99 billion to be expended at all, any of it, until the initial tests prove the Stealth to be successful. Then we release 15 percent of it, which keeps the program on schedule, and we then take into account the second group of tests that will be coming later on the Stealth characteristics. Then we risk $300 million at that stage and acknowledge it in order to complete those tests and to make sure that we can keep the production on schedule if those tests are positive.

If those tests are negative, then we have spent $300 million, but the Senator from Maine has spent $942 million at that stage. If those tests are positive, and this is the fundamental difference between the two, if those tests are positive, we release that rest of the $1.99 billion next fiscal year, which keeps the program on schedule and saves $4.7 billion over the lifetime of the program.

We believe that our amendment is the sound way to go. We believe that the Cohen amendment, it if is adopted, will put another nail in the coffin of this program which is already, as we know, struggling.

The difference is the Cohen amendment will require that layoffs take place in the production line; it basically sets the program back 1 year; and it adds costs to it that we believe are just too much for the program.

Mr. President, I ask for the yeas and nays on the Nunn-Warner amendment, the Leahy-Cohen amendment, and the Cohen-Leahy amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I reserve whatever time is remaining.

Mr. COHEN. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes and twenty seconds.

Mr. COHEN. Mr. President, first let me direct a couple comments to the Leahy amendment. With respect to the Soviet Union, as far as their strategic programs, there is no doubt they are being modernized. Without logic, or against all logic, against all economic opportunity for their people, they are being modernized to the detriment of the very people they purport to serve. So their leadership is taking them over the edge into an abyss.

It is ironic what our response is. Rather than making it clear to them that you are taking them over at your own risk, rather than making it clear we are not going to support you with economic assistance, we are not going to open our trade gates to you, we are not going to drop Jackson-Vanik, what we do is blink; we turn away. Instead of saying no trade, we say more trade, and by the way, we are going to build the B-2. At a time when we have the most leverage in the history of our relationship, what we do is allow them to set the agenda by building more and more, so we have to step under the tread and build more and more. I find the logic curiously inconsistent with the leverage that we have at this particular point in time.

I think Senator GLENN said it as precisely as it can be said. The key is we cannot afford to modernize all three legs of the triad if we are going to shape our conventional forces in a way that is going to protect our interests in the future. I call my colleagues attention to a front-page article in the New York Times. It is entitled "Pentagon Drafts Post-Cold-War Strategy."

In order to accommodae that post-cold-war strategy, we are going to have to expend substantial sums of money. We are not going to be in a position to modernize the strategic triad across the board and do all that is necessary to achieve the result that we need.

So I come out in favor of the Leahy amendment, not because the Soviet Union is less dangerous, and not because the world is less dangerous, but because I believe we can meet our strategic deterrent requirements by drawing upon the MX, the Trident submarine, and the ALCM's. Whatever is necessary we have in our arsenal, that plus the B-1B, the cruise missile.

I would like to turn to the voting sequences we are going to have. The Senator from Georgian says there is a major difference between his amendment and mine. Indeed, I am going to recommend we support the Nunn-Warner amendment. I think it adds very little to what we have had in the law to date. It adds three more tests than we imposed last year, and they have not met the requirements of last year. I call it a figleaf fence. But I urge everybody to support it, and I will support it.

When it comes down to the underlying amendment, let us look at the facts. The Armed Services Committee understands the tradeoffs when we adopt the fly-before-buy principle. We imposed the fly-before-buy principle in the C-17. We took out all the production funds there; we took out all the production funds for A-12, SSN-21, and MX rail garrison. With respect to the C-17, we said "there may be additional costs associated with stretching out procurement of fiscal 1990 aircraft," but the committee concluded it was worth it.

So in every other program, C-17, A-12, SSN-21, and MX rail garrison, we impose that standard, but not the B-2.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Georgia has 54 seconds.

Mr. NUNN. Mr. President, I yield such time as the Senator from Virginia may want.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the Senate has received a communication from the President of the United States. I ask unanimous consent that his letter, dated August 2, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 2, 1990.

Hon. JOHN W. WARNER,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: As the Senate begins consideration of the FY 91 Defense Authorization Bill, I want to make clear my strong support for the B-2 program.

Despite the significant changes in Eastern Europe and the Soviet Union, the U.S. still has a fundamental requirement for the B-2. The long-range bomber is the most stabilizing and flexible leg of our strategic triad, and the only leg whose capabilities are applicable across the full spectrum of conflict. The B-52 inevitably is reaching the end of its useful life. The B-1B was bought in limited quantity with the express purpose of bridging the gap between the B-52 and B-2. The B-2 is ready for production at the revised levels defined by Secretary Cheney. Further delays and gaps in production funding will only increase the cost of this needed capability.

The B-2 continues to be an integral part of our force structure plans under START. The agreement now being negotiated is intended broadly to move the U.S. and Soviet Union away from reliance on fast-flying nuclear missiles and towards more stable systems such as the manned bomber and strategic defenses. Even under the lower force levels embedded in the START treaty, the U.S. must continue to maintain modern nuclear forces for the future. The bomber is increasing in importance within the balance of the triad.

The B-2 is also the most prominent example of how the U.S. can use technology to our advantage; offsetting major investment by potential adversaries, and minimizing our requirement for a large force structure. The advent of stealth technology ranks among the most important military developments in recent decades. We lead the world in this field, focusing on the future military environment. It is vital that the Congress sustain our commitment to produce stealth technology and deploy the B-2.

There have been historic changes in the international environment over the past year. There is no question Fiscal Year 1991 will be a difficult year for defense and many tough choices must be made. However, the mission of sustaining nuclear deterrence, which helped to make the changes in Eastern Europe possible, must remain the highest defense priority.

Sincerely,

GEORGE BUSH.

Mr. WARNER. Mr. President, in the few seconds I have remaining, I would like to read what I believed is the key and operative paragraph:

The B-2 is also the most prominent example of how the United States can use technology to our advantage: offsetting major investment by potential adversaries, and minimizing our requirement for a large force structure. The advent of stealth technology ranks among the most important military developments in recent decades. We lead the world in this field, focusing on the future military environment. It is vital that the Congress sustain our commitment to produce the B-2 Stealth bomber technology and deploy the B-2.

Mr. SANFORD. Mr. President, I am supporting the chairman of the Armed Forces Committee, Mr. NUNN, in his position on the B-2 program, because I believe we need the development of the technology alive. I reserve the right to in time vote against this B-2 program.

I may very well by next year have adequate new information to cause me to vote against additional authorization. But whatever the future development, I reject the argument by Gen. Colin Powell and Secretary Richard Cheney that this weapon is essential to defend against attack by the Soviet Union. It is just this kind of paranoia that can bring us to all manner of bad decisions relating to strategy.

The Warsaw Pact has evaporated. The will or the capacity in Moscow to fight a war is nonexistent, and indeed is ludicrous.

The mindless assertions that the Soviet threat justifies buying 75 of these unproven planes insult the intelligence of the ordinary Members of the U.S. Senate. It is this threat of threat and counter threat that has overarmed the world.

Our diplomatic challenge is to cool the world. The proponents of the B-2 surely can find a better argument to justify their plane.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question now is on agreeing to the Nunn second-degree amendment proposed to the Warner amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—97

Adams	Ford	McCain
Akaka	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Shelby
Cranston	Kennedy	Simon
D'Amato	Kerrey	Simpson
Danforth	Kerry	Specter
Daschle	Kohl	Stevens
DeConcini	Lautenberg	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Wallop
Dole	Lieberman	Warner
Domenici	Lott	Wirth
Durenberger	Lugar	
Exon	Mack	

NAYS—2

Moynihan	Sasser

NOT VOTING—1

Wilson

So the amendment (No. 2485) to amendment No. 2484 was agreed to.

Mr. NUNN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I suggest we voice vote the underlying amendment, and we can go to a rollcall on the next amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 2484) was agreed to.

VOTE ON AMENDMENT NO. 2494

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "nay."

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—43

Adams	Harkin	Moynihan
Akaka	Hatfield	Packwood
Baucus	Hollings	Pell
Biden	Humphrey	Pressler
Bradley	Kassebaum	Pryor
Bumpers	Kennedy	Reid
Burdick	Kerrey	Riegle
Byrd	Kerry	Rockefeller
Cohen	Kohl	Roth
Conrad	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
Daschle	Lieberman	Simon
DeConcini	Metzenbaum	Wirth
Glenn	Mikulski	
Grassley	Mitchell	

NAYS—56

Armstrong	Exon	Mack
Bentsen	Ford	McCain
Bingaman	Fowler	McClure
Bond	Garn	McConnell
Boren	Gore	Murkowski
Boschwitz	Gorton	Nickles
Breaux	Graham	Nunn
Bryan	Gramm	Robb
Burns	Hatch	Rudman
Chafee	Heflin	Sanford
Coats	Heinz	Shelby
Cochran	Helms	Simpson
D'Amato	Inouye	Specter
Danforth	Jeffords	Stevens
Dixon	Johnston	Symms
Dodd	Kasten	Thurmond
Dole	Levin	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	

NOT VOTING—1

Wilson

So the amendment (No. 2994) was rejected.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2493

The PRESIDING OFFICER. Under the previous order, the Senate returns to consideration of the Cohen amendment No. 2493 on which remains 20 minutes to be divided and controlled by the Senator from Maine [Mr. COHEN] and the Senator from Georgia [Mr. NUNN] or his designees.

The Senator from Georgia.

Mr. NUNN. Mr. President, would the Chair inform the Senate again—because I do not know that the Senate was listening or could hear; we are still having an awful lot of noise—as to the time division on this amendment?

The PRESIDING OFFICER. The Senator from Georgia is correct. The Senate will be in order.

There will be 20 minutes equally divided on Cohen amendment No. 2493, controlled equally by the Senator from Maine [Mr. COHEN] and the Senator from Georgia [Mr. NUNN] or their designees.

Who yields time?

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Mr. COHEN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. COHEN. Mr. President, the B-2 acquisition cost is now at $865 million per plane and it is going to be rising. The life cycle cost is in excess of $1 billion per plane. And the Air Force is now asking for $2 billion more for another two planes even though it has not spent any of the $1.6 billion we gave them last year for two planes. Now we have Justice Department officials proposing that Northrop be debarred from any further defense procurement. It is with that in mind that I offered the amendment that would do the following:

It would apply the fly-before-buy principle. This is something that we have applied to a number of weapons systems. We have applied it to the A-12, the C-17, the SSN-21, MX rail garrison, the light helicopter, and V-22.

What I seek to do is to apply the same principle to the B-2. As Senator NUNN indicated before, it is going to cost some money. What this amendment does, essentially, is deny the Air Force request of procurement funds for two more aircraft. That is what they have requested for the next fiscal year.

The amendment would provide $942 million in procurement accounts so they can continue their line of production and so that we do not have a loss of the subcontractor and contractor base. This is the figure that the Air Force has suggested would keep the line alive.

It would retain the money for the research and development and testing.

What it does is it denies them two more aircraft. No procurement funds for two more aircraft.

This in effect would force the Air Force to do that which it is going to do anyway. It is going to have to defer the two aircraft that we authorized last year, for which they have not spent any of the money we gave them last year into fiscal year 1991. What we are essentially saying is we are not going to allow you to buy any more aircraft until you start measuring up to this fly-before-buy principle, the same principle applied to every other system.

I would like to quote from the committee's report. With respect to the A-12.

> The committee does not believe that preserving production options under the current contract by approving substantial increases in A-12 funding should override the need to insure that the system meets technical and cost specification.

That is what we said for A-12.

With respect on the C-17, here is what the committee said:

> There may be additional costs associated with the stretching out of the procurement funding for fiscal 1990 aircraft.

But the committee concluded over and over again that these additional costs were justified in order to avoid potentially greater costs associated with buying before flying.

And the committee's report clearly states:

> DOD does not have to rush to buy a weapon in order to meet an arbitrary filing date. The Pentagon can now afford to take the time to get it right the first time.

So my amendment really does apply a fence. Not the kind of fly-through fence the Senator from Georgia and the Senator from Virginia have offered, a sort of figleaf fence through which the Air Force can fly. This one says no new planes until you produce what we have already given you the authority and money to produce.

It is the same principle we applied to every other system. There should be no exception for the B-2 particularly in view of cost escalation, particularly in view of the Justice Department proposal to bar the contract, particularly in view of the ambiguity in terms of how much it is ultimately going to cost.

So I hope that the Senate would endorse this principle. It allows the B-2 to continue, but on our terms and not on the contractor's and not on the Air Force's—basically saying prove it before you get additional money to buy nore B-2's. I hope it will gain the support of my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield to the Senator from Kansas such time as he may require.

Mr. DOLE. Mr. President, I thank the manager of the bill. I will take just about 3 minutes. Again I am here amidst a number of experts. I am not one. But it seems to me if you wanted to kill this program you should have voted yes on the last amendment, instead of spending $5 billion more to kill the program.

This is an important issue. We want to make certain we have all the facts. We have had a lot of debate. We have looked at this amendment. We have looked at the other amendments.

As I said in my earlier remarks, we are at a critical juncture regarding the future of our Strategic Forces. We are choosing between ensuring our deterrent posture for the next 30 to 40 years, and letting the bomber leg of our triad become obsolete. Let us be clear about that.

And let us be clear about this illusion of savings that this amendment offers. If we stop production of the B-2 this year, complete the testing, and then continue the program next year, it will cost nearly $5 billion more. If cost is the concern then this is exactly the wrong way to go about it.

I believe, based on the information I have, that the approach offered by the managers of the bill, Senator NUNN and Senator WARNER, have offered us the right course to proceed. They have provided language that will make sure this money will be spent wisely.

So, let us not hide from what this vote is all about. Postponing this decision until next year and increasing the cost of the B-2 by $5 billion is a vote to let our bomber force become obsolete, undermine the START agreement, and erode our national security. I believe, in the final analysis, it is a vote to kill the B-2.

Mr. NUNN. I thank the Senator from Kansas.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. NUNN. Mr. President, let me take just a brief moment to emphasize the difference between the Nunn-Warner amendment which has been adopted and the Cohen amendment which is pending. Both amendments would provide $1.75 billion for research and development. Both of them are identical on that score.

When we turn to procurement, the Nunn-Warner amendment provides $1.99 billion for procurement. The Cohen amendment provides $942 million for procurement. This is what is important.

If people are worried about the risks to the program, if they think they are going to get a negative test and it is not going to be stealthy, then the Nunn-Warner amendment provides much better protection in terms of the

taxpayer's money than the Cohen amendment.

Here is why: The Nunn-Warner amendment provides that if the initial Stealth testing results are negative, there would be none of this procurement money spent for the two new B-2's. The Cohen amendment provides that $942 million would be spent even if those tests are negative, the first test.

On the second test, if the first ones are positive, the Nunn-Warner amendment provides that $300 million can be spent in the interim between the first test and the second test. Again, the Cohen amendment would permit that entire $942 million of procurement money to be expended.

To summarize, if the test failed and if the stealth characteristics are not there, there is less money spent under the Nunn-Warner amendment and the money would be available to come back to the Treasury. Now, if both tests are positive—this is another difference between the Cohen amendment and the Nunn-Warner amendment—if both tests are positive, the Nunn-Warner permits the release of the rest of the procurement money. But that is after the stealth characteristics have been proven.

Now, the reason we do that is because it keeps the program from being thrown off schedule. And, as the Senator from Kansas just mentioned, if the program is thrown off schedule, which the Cohen amendment would do, then it adds $4.7 billion to the program costs. That is what we do not want to do.

This horse is heavy enough already. If we add $4.7 billion to the cost, then it is going to be very, very difficult, even if everything works perfectly, to ever be able to sell it to the American people. And I realize that. It is hard enough now.

So I urge our colleagues—those who are against the Stealth bomber, I think they all should have voted for our amendment, frankly. They all should have voted for the Nunn-Warner amendment, and some of them did. But they should vote against the Cohen amendment.

If they do not believe the stealth characteristics are going to work, they are going to be putting $942 million out there and say: "go spend it anyway, whether it works or not."

So I would say, both those who are for the B-2 and who voted against the Leahy amendment, and I hope those who even voted for the Leahy amendment would understand that this is not the prudent way to proceed.

Mr. President, how much time do I have remaining.

The PRESIDING OFFICER. The Senator has 4 minutes and 45 seconds remaining.

Mr. NUNN. Mr. President, the B-2 bomber will cost $34 billion more if we buy it the Cheney way, and $34 billion is a lot of money. That causes a lot of problems to people; I know that. But the reason it is being so focused on is because somehow the other programs that cost big money do not get any focus.

We have moved into a high technology era. We have decided to move in that direction. We are going to go for quality.

I want to just share with my colleagues the program that cost more than the B-2 that are not being disputed now, that are in this bill, the House bill, and that are not being really disputed.

SDI phase one. The cost on that one, according to our computations and our staff, if we go to phase one over the next 10 years, would be $132 billion. The cost of the advanced tactical fighter plane, the Air Force, $99 billion. The cost of the Navy A-12 attack aircraft, $51 billion. The cost of the DDG51 destroyers—I understand we have about 50 of those planned—$39 billion. We are going to be spending more money on destroyers in the next 10 years than we are going to be spending on the B-2.

The B-2 can hold every Navy ship in the world virtually at risk; every surface ship at risk. I do not dispute the value of destroyers, but 50 destroyers compared to 75 B-2's is not even a comparison.

Then we have the LH helicopter, $38 billion; the small ICBM, $38 billion. And even though it is not a military program, the space station, $35 billion.

I would also say we talked about fly before you buy. The Senator from Maine mentioned the advanced tactical fighter, what we are doing in that Navy, the A-12 and the LH helicopters. The difference there is none of those have flown at all. We are proceeding, in my opinion, with the fly-before-you-buy theory in the B-2 program, but we are not taking it to the point of absurdity, to the point it really makes the program so expensive we cannot afford it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 5 minutes and 53 seconds.

Mr. COHEN. I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I joined the majority leader in opposing the B-1 bomber, and we opposed it for reasons which are still valid, but we lost. Now we have 97 B-1 bombers.

The Senator from Georgia is correct. If we had 50, 65, or 75, or whatever, B-2's, it would indeed hold the navies of the world hostage. But the B-1 bomber would do that also.

We have had as many changed missions for the B-2 bombers as we have debated the appropriations for it on this floor. Every year the mission changes. To take out a navy; because it will penetrate; because you can call it back, as you can the B-1.

One of the big mistakes here is that we did not build a prototype. We are flying one. Listen to this, colleagues: We are testing one B-2 bomber. As of now it has flown about 67 hours out of a testing period of about 2,000 to 3,000 hours that are going to be required. And we have no assurance that the avionics and the counterelectronic measures on this plane will ever work. They still do not work on the B-1, as we were promised.

I think the approach of the Senator from Maine is a very legitimate one. I think the arguments are compelling. Let us not buy and start embarking on buying 30 or 45 or 65 or 75 airplanes until we know we are getting our money's worth.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BUMPERS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Will the Senator from Maine yield me 1 minute?

Mr. COHEN. I yield 1 minute to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 minute.

Mr. LEAHY. Mr. President, the distinguished Senator from Georgia said he hopes those who voted for the Leahy amendment will now vote against the Cohen amendment. I voted for the Leahy amendment. I intend to vote for the Cohen amendment.

They are, after all, the Leahy-Cohen amendment, and the Cohen-Leahy amendment. It was to give our colleagues some options.

Basically, we are saying lets not get so far down this road that the next argument is the plane does not meet any of the missions we have been told it was supposed to, but now we have spent so much money we have to go ahead and build it anyway; and trust us, we will find a mission.

The B-2 changes missions almost as rapidly as I change neckties. I would hate to see us get to the point where we just spend the money and then have a contest to name the mission.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. NUNN. Mr. President, I yield such time as the Senator from Virginia may require.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. As the President of the United States informed me today

by letter, Stealth technology is our cutting edge to prevail in deterrence. The mission of this aircraft is to never take off from a U.S. airfield in anger. It is simply to complicate the formula in the mind of the Soviet planner such that that risk will never be taken.

My good friend from Maine used the word "figleaf." With no disrespect, his amendment is just a figleaf to kill this program. If deterrence fails, all the weapons systems in place today, all those enumerated by the chairman of the Senate Armed Services Committee, are of little value to this country.

The PRESIDING OFFICER. Who yields time? The Senator from Maine has 2 minutes and 51 seconds. The Senator from Georgia has 1 minute and 17 seconds.

The Senator from Maine.

Mr. COHEN. Mr. President, I think as we conclude the debate, all that can be said has been said. I would point out a couple of errors Senators have made, I believe, as far as the amendment is concerned. This amendment would deny the request to procure two additional aircraft.

The effect of that is to push off into fiscal 1991 what we have done in the past. They have $1.6 billion, which was approved last year, none of which has been spent, for two additional aircraft. All we could do is push those aircraft into the next fiscal year.

Second, with respect to fencing, of the $2.7 billion in the bill, which is every penny the Air Force requested for procurement, $767 million would have no fence whatsoever under the Nunn-Warner fence, so-called.

So I suggest the principle of buy after we fly would apply here, on the B-2 as well as the A-12, C-17, the SSN-21—to every other system we have applied the same principle but this one. The reason is they want to lock in two more aircraft so next year they can come back and say, we have gone this far. It is not $26 billion now; it is more. They are looking to put in two more aircraft, and then suggest it is irreversible.

By the way, it is not Secretary Cheney's figures we ought to look at. The CBO indicates it will be $38 billion for the completion of this, so it is not $34 billion, as suggested.

I suggest we fund what we have on line right now, but no more B-2's until you prove them. That, I think, is the responsible course of action.

I recommend very strongly we support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Will the Senator yield me 1 minute?

Mr. NUNN. The manager yields such time as the Senator requires.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the B-2 is the finest plane this country has every built. It is the finest plane any country has ever built. If we are going to deter war, this is the way to do it. This plane will do more to deter war than any weapon that has ever been devised by any country in the world.

I hope we will kill this amendment; we will go forward and follow Senator WARNER and Senator NUNN. They are on the right track.

I hold in my hand here now the "Soviet Production of Strategic Systems."

In 1990, the Soviet Union continues to produce the following strategic nuclear systems:

They are going forward. We cannot afford to stop now—

SS-25: Road-mobile; SS-24 Mod 1; SS-24 Mod 2; SS-18 Mod 5; SS-18 Mod 6; SSN-23; SSN-20; Delta IV; Bear H; Blackjack; AS-15; SSN-21.

The Soviets are going forward with strategic weapons. We cannot afford to stop. We need this weapon. We must have this weapon for deterrence, to prevent war.

The PRESIDING OFFICER. The time of the Senator has expired. There is 55 seconds left to the Senator from Maine.

Who yields time?

Mr. COHEN. The time of the Senator from Georgia has expired?

The PRESIDING OFFICER. That is correct. The Senator from Maine has 55 seconds.

Mr. COHEN. Let be respond to my friend from South Carolina. The Soviet Union has been building many, many strategic systems. I hope in the future, when it comes time to sell farm equipment or farm products or high technology, that those who are so anxious to go forward with the B-2 to mirror what the Soviet Union is doing, to try to respond to their strategic buildup—will be equally eager to cut back on aid to the Soviet Union.

That has not been the case in the past. I hope it will be the case in the future, that we can have a solid front in denying to the Soviet Union, that continues to build its strategic systems, the kind of trade and credits in farm products and other things we seem so eager to ship to them on other occasions.

Mr. JEFFORDS. Mr. President, we have heard a great deal today about the pros and cons of funding the B-2 bomber. I believe that the most reasonable approach is that outlined by the gentleman from Maine [Mr. COHEN]. His amendment would provide a 1 year pause in procurement funding. Let's step back for a moment and think about the current configuration of our national defense, the state of the strategic threat, and how we want to reorder our defense for the future.

Our strategic plan is currently based on the concept of the strategic triad—reliance on land, air, and sea-based systems. Historically, we have relied much more heavily on the land-based leg of the triad, the ICMB's: the Minuteman missiles, the MX missile, and potentially the single warhead Midgetman missile. While we have built up our air-based leg of the triad in recent years, the least developed leg of the triad is the sea-based leg—our nuclear-capable submarines.

For many years I have argued against production of the MX missile as being destabilizing and outmoded. The more flexible and survivable our strategic systems, the more useful they will be and the less likely they will be launched in a period of great superpower tensions. However, the land-based MX system is a sitting duck in the event of a Soviet attack, and the temptation is to launch them in a preemptive strike. Weapons systems of this nature will not help us keep the peace, in spite of the nickname given to the MX—Peacekeeper.

Instead of pouring more resources into the vulnerable land-based leg, in the past I have advocated development of the undersea and air-based systems. The Trident submarine provides us with a flexible and accurate nuclear weapon. It can be deployed so as to cover most areas of the world and does not cause undue tension with its maneuvers. The Trident can provide incremental response to a crisis, sending signals about U.S. seriousness as a crisis escalates without launching any missiles. This preserves our options and is more likely to preserve the peace.

Many of these same advantages are inherent in the bomber leg of the triad. They have the advantages of flexibility, incremental escalation and recall. Some may claim that the air-based leg is redundant in view of our submarine capabilities. Yet the transfer of secret submarine technology to the Soviet Union by Toshiba Company illustrates how fleeting a technological lead can be and why we must have some redundancy in these systems. Bombers can also be used in either a conventional or a nuclear conflict, an important capability as we move away from the strategic threat and look more toward the threat of a conventional conflict. However, bombers need bases and their maneuvers are much more visible.

Of late, the air-based leg has been plagued by problems. I have long been a critic of the B-1 Bomber Program. Over a decade ago, I argued that the B-1 was an unnecessary stop-gap measure designed to tide us over until a Stealth bomber, which held great promise, could replace the aging B-52 fleet. It made much more sense to put our resources into research on stealth

technology instead of building an expensive bomber that would soon be obsolete if the Pentagon had its way. As I expected, the B-1 bomber ran drastically over budget and has failed to perform up to original expectations. I still believe that the resources of the past decade would have been better spent on perfecting stealth technology and bringing it on line sooner and more cheaply. However, the Reagan administration and a majority of Congress disagreed with my assessment, and the B-1 was built. Yet this does not negate the inherent advantages of steering our strategic configuration more toward air and sea-based systems and away from the land-based ICMB's.

We are now faced with a significantly less threatening Soviet Union. Economic crisis is now accompanied by domestic dissatisfaction that threatens the very structure of the union. The Warsaw Pact is crumbling and central Europe is moving into NATO's sphere. Meanwhile, we are facing a more threatening Federal deficit. Gramm-Rudman-Hollings cuts, if enacted in full, could take a sizable bite out of both defense and domestic spending. And the Bush administration is currently attempting to negotiate a START agreement with the Soviet Union that would decrease the number of nuclear warheads in both sides' strategic arsenals. All these factors call into question the wisdom of steaming full speed ahead on production of the B-2 bomber, particularly as cost overruns and performance problems continue to plague the system.

In last year's defense authorization debate, I voted with the majority of the Senate to insist that the B-2 program meet various threshhold tests before funding is released for further production. These conditions were designed to provide sufficient funding to keep the production lines on schedule while ensuring accountability. None of these conditions was considered particularly difficult to meet if production proceeded as envisioned by Northrop and the Air Force. Unfortunately, few of these threshholds tests have been met and the program has yet to qualify for the majority of the funds provided for this current fiscal year. In an attempt to cut down on waste in Pentagon spending, we are requiring that all defense systems meet strict performance standards before full scale production is launched. The B-2 should be no exception.

The Cohen fly-before-you-buy amendment recognizes that it makes fiscal and strategic sense to follow through on the production of planes already in the pipeline. This amendment provides the $942 million that the Air Force says it must have to avoid a break in production. It also provides $175 million in research and development funding that is necessary to work the bugs out of the system and perfect the technology.

Yet, in light of the funds still in the pipeline and recognizing that the international environment is in rapid flux, this amendment takes the wise course of eliminating almost $2 billion that was requested to begin production of two more planes. Northrop will have its hands full just delivering the planes that are already in the pipeline and completing its current testing schedule.

Mr. President, next year when we take up debate on the fiscal year 1992 defense bill, we will again have to make difficult choices. If this body moves today to accept the Cohen amendment, we will be in a much better position. The nature of the changes in the Eastern Bloc will be much clearer. By then, the extent of the strategic threat to the United States will be more obvious. And we will not have sunk $2 billion more into the B-2. At that time we can decide the fate of the system. For now, let us do the prudent thing in light of the uncertain, international situation and the looming Federal deficit—insist that the B-2 Program survive on the funding already appropriated and prove that it is able to perform its mission before additional procurement funds are provided.

I urge my colleagues to support the Cohen amendment.

Mrs. KASSEBAUM. Mr. President, I have listened to this debate throughout the day and I have talked with many of my colleagues and others about this matter over the past few days. Frankly, I have had to wrestle a great deal over further funding for the B-2 because there are persuasive arguments on both sides.

I do believe there is a sound, credible case to be made for continued funding of the B-2 and that case has been made very well by the chairman and ranking member of our Armed Services Committee. The B-2 does represent an enormous technological leap forward. It offers a capability that would strengthen and help stabilize our nuclear deterrent. I also do not casually dismiss the potential impact that terminating this program could have on our arms control talks with the Soviet Union.

However, I have concluded that these arguments—sound as they may be—are fatally undermined by two basic facts that now confront us all. One is a huge and growing Federal budget deficit that requires us to weight every budget item with exacting scrutiny. In my own view, the strangling effect of the deficit is the single greatest threat facing our national security today. We cannot ignore that threat.

The second fact is simply that we now live in a world dramatically different from just 1 year ago. It certainly is true that the Soviet threat has not evaporated and that we cannot discard the need for a strong, effective national defense. However, the threat posed by the Soviet Union today is significantly altered by the changes that have occurred in recent months—both in Eastern Europe and within the Soviet Union itself.

Mr. President, the basic question before us is whether the cost of the B-2 bomber is worth the potential benefits its capability could provide. I do not believe those benefits justify all of the costs of the B-2 program.

The Defense authorization bill now before us will lead to great change and upheaval within all of our armed forces. Thousands of soldiers, sailors, and airmen will be required to leave the services in the months and years ahead. The bill drafted in the House would significantly increase this upheaval.

At a time when each defense dollar—and every budget dollar—is precious, I believe it is vital that we focus not only on hardware, which certainly is important, but also on the people who are the real force that defends our national security. The B-2 bomber offers a remarkable potential but if the price of that potential must be paid in even deeper cuts in personnel and manpower, as seems likely, then I believe we should terminate this program.

THE CASE FOR THE B-2 ADVANCED TECHNOLOGY BOMBER

Mr. WILSON. Mr. President, the declassification of information about the B-2 bomber a few years ago has led to an ironic result. Precisely at the time when the Defense Department removed the veil of secrecy from both the problems and the promise of this aircraft, we have become more confused about its purpose.

We have heard that the United States does not need another expensive weapon system as the Soviets loosen their grip on Eastern Europe and begin to negotiate strategic arms control agreements in earnest. We have heard that existing bombers and cruise missiles in the American arsenal already provide an adequate retaliatory force for any wartime emergency. We have heard that the Kremlin, groaning under the burden of a stagnant economy and a disintegrating empire, no longer poses a credible military threat to our Nation. We have heard that per ounce, or pound, or inch, or foot, the B-2 bomber costs more than gold. And we have heard, Mr. President, that the B-2 could not possibly work because no aircraft can fly invisible or undetected by enemy radars.

These charges are unfortunate if only because of their shortsightedness and inaccuracy. But these problems do not concern the opponents of the B-2 who have launched a visceral cam-

paign to stigmatize this system unlike any effort we have witnessed since the $700 hammer.

Those who seek the termination of this program, Mr. President, have constantly pounded their ideological hammers on it. The deafening noise of their rhetoric has buried the unpleasant but vital facts that demand continued congressional support for the B-2. I find it interesting that the two Senators who introduced the B-2 termination act in January devoted significant portions of their floor statements not to any perceived flaws of the aircraft or the savings that would accrue to the American people if we stopped the funding, but to how we might spend the money on an array of other Federal programs.

Mr. President, allow me to refocus this debate for a moment by exploring why the B-2 investment will ultimately pay off for the taxpayers.

First, the B-2 bomber gives the Air Force several important capabilities that it will need precisely as we reassess the international security threats to the United States and face the prospect of a drastically reduced defense budget. The B-2 can hold any mobile, fixed, nuclear, or conventional target at risk. It can fly to any location in the world and return to the United States with only one aerial refueling. It leaves virtually no signature on a radar screen. It does not generate a new arms race but enhances our deterrent force posture by presenting the only nation in the world still capable of destroying American territory—the Soviet Union—with the power to fly deep within the enemy's heartland to threaten any military or industrial target of our choice.

In addition, Mr. President, the B-2 would not disrupt the United States-Soviet strategic arms control process because the START treaty almost completed favors slow-moving, recallable, and manned platforms such as the B-2 over more destabilizing and offensive-oriented land-based missiles.

The B-2, Mr. President, harnesses American technological genius to discourage a nuclear strike from any source—not just the Soviet Union—without signaling that the United States will itself initiate a war.

As a result of its multimission character, this aircraft answers America's defense needs of the future. It can, for example, restrain a Third World madman in possession of chemical warheads or provide swift conventional aircover to a distant ally such as Israel during a time of crisis.

Can the air-launched cruise missile assume the penetrating mission of the B-2 at a fraction of the cost? A rational military assessment would dispute this contention. Cruise missiles can only be fired by our existing standoff bombers, which have no stealth capability, at a long distance from an enemy's borders. This constraint means that they could not travel deep within enemy territory to strike with accuracy at any number of targets.

Another major question about the B-2 is whether we can afford it. Opponents cite a unit cost per bomber of more than $800 million as too high for Congress to authorize. But in citing this figure, they include the $27 billion that the taxpayers already invested in research and development for the first 15 aircraft during the 1980's. We cannot save or reinvest this money, Mr. President, because Congress has already spent it.

We must concentrate on the budget realities of today and tomorrow. With the basic stealth and manufacturing technology research completed, the cost of the entire program has started to decline. Twenty-seven billion dollars bought us 15 planes in different stages in production. Another comparable investment, $35 billion, will furnish the remaining 60 bombers that the President has requested.

Yet if Congress kills the B-2 after all units now in production roll off the line, we will have to spend, according to the Air Force, this same $35 billion for termination costs and manufacturing expenses up to the completion of the 15th bomber.

So we have to decide today, Mr. President, not what to do with billions of dollars in savings if we end the B-2, but what we will do with this $35 billion that we cannot avoid spending on the program. We can spend it to terminate the contract, help 17,000 people find new jobs, and keep the plant running until that 15th aircraft reaches the runway. Or, we can spend it over the next several years to provide the taxpayers with a credible fleet of 75 bombers. Which of these two alternatives gives the best deal to the American people? The answer, though unspoken for too long, is evident.

Mr. President, what we cannot afford is to waste an already colossal amount of money devoted to an unprecedented technology and a new age weapon that dramatically improves America's ability to project its power through the air all over the globe. We must plow through the shrill rhetoric and look soberly at what we have bought, what we could waste, and what we have spent. The taxpayers do not want a hollow military; they want an effective, although smaller, one. The B-2 bomber fits this mold, and the Senate must now summon the foresight to realize the prudence of this investment.

Mr. BURNS. Mr. President, as we address the drawdown of resources available for national security, deficit reductions and relative spending priorities, one of the fundamental concerns among many Senators, including myself, is the cost of the B-2 bomber. This concern raises some tough questions which need to be considered in perspective.

First and foremost, the B-2 represents the most advanced aircraft and the most advanced manufacturing technologies available in the world today. Notice that I said available, because we already have the B-2 production line in place and operating. It represents a true national resource that has been bought and paid for. And it did not come cheaply—$27 billion has already been invested in this capability over the past several years. As a result, this country continues to enjoy a tremendous lead in both aerospace and manufacturing technology.

Most of us have heard the oft-quoted cost of the B-2 program of around $62 billion. Too often, however, we are led to believe that these costs are still ahead. In fact, the $27 billion investment that I mentioned is a part of that total. This means that nearly half of the B-2 program has already been paid for, including most of the research and development effort. I think the American people would be appalled to know that we would consider throwing that investment out the window. And I think that is exactly what we will be doing if we deny production funds for the B-2.

On the other hand, if we move forward with the scaled-back production of the B-2 as recommended by the Secretary of Defense and included in the Senate Armed Services Committee proposal, we will have made a good long-term investment. The returns on that investment include: giving the United States the lead in stealth technology; providing the United States with a revolutionary strategic bomber that will serve us for the next 30 to 40 years, a strategic weapon that is recallable, and a modern strategic system with conventional capability; and finally furthering our national strategy to rely on our superior technology to offset the Soviets' numerical superiority.

It is also extremely important to point out the need for the B-2. It is clear that the Soviet Union still poses the largest threat to the security of this Nation. The failure of communism in the Eastern Bloc and the eased tension between us and the Soviet Union are both welcome changes. However, no one disputes the fact that the Soviets are continuing to modernize their strategic forces. I believe that we need to continue to modernize ours. And while tensions between our two countries are eased, tensions within the Soviet Union are on the rise. It makes me very nervous to see the only country with the capability to destroy us militarily in a state of internal turmoil. As a result, I believe it is still very important for us to maintain a position of strategic deterrence. The B-2, as a part of our strate-

gic triad, is an integral component of that deterrence.

Mr. President, given the tremendous investment that has already been made, and given the significant operational capability to be attained through buying out the B-2 program, I believe the completion of the 75 aircraft plan represents a sound and rational approach. Although the funding requirements are still substantial, Secretary Cheney has acted in good faith to constrain them in the face of reduced defense budgets. And Senators NUNN and WARNER have gone to great lengths to ensure a fly-before-you-buy policy. Further, the cost to complete the B-2 program is not overwhelming. As Senator NUNN has stated, there are several other defense programs that will be more expensive, and which will require investments in the same kind of development efforts that have already been completed for the B-2.

I ask my colleagues to join with me in support of the requested funding for fiscal year 1991 to continue the B-2 program as requested by the Secretary of Defense and as authorized by the committee in this bill.

FLY BEFORE YOU BUY

Mr. LEAHY. Mr. President, I am disappointed that the Senate voted against terminating the B-2 program which would have saved taxpayers over $30 billion.

I favor termination of the B-2 program, but if we are going to buy this system over my objections we should do it right. I hope the Senate will adopt the Cohen-Leahy underlying amendment. This measure will eliminate the $2 billion requested for two additional planes in fiscal year 1991. Congress needs more test results before authorizing funds for any additional planes.

Mr. President, earlier today, the Senate passed a series of fly-before-buy goals the B-2 program is required to meet before obligating the fiscal year 1990 procurement funds. These so-called fences were designed to reduce concurrency—the overlap between production and flight testing. I supported the imposition of these fences but I feel more drastic steps are now needed.

The fences passed last year were well intentioned but concurrency remains. The B-2 bomber has completed only 67 of 3,400 hours planned for flight testing. Congress has approved nearly $10 billion to procure the B-2 but has seen only one aircraft actually fly and it has flown less than 3 percent of the scheduled flight testing.

Earlier this year, the General Accounting Office [GAO] expressed concern about concurrency in the B-2 program. GAO determined that if current test schedules are met, it will be at least 3 years before critical performance requirements have been fully tested. GAO claims "that is the point where problems are typically discovered."

Despite this clear case of high risk concurrency, the Senate Armed Services Committee recommended to authorize $2 billion for two more aircraft and $767 million in advanced procurement in fiscal year 1991.

The B-2 is a revolutionary aircraft. We need to follow tough testing standards to make sure this plane performs as advertised before deciding to proceed with production.

Mr. President, the Senate should apply the same rigorous fly-before-buy standards that were imposed on other aircraft programs in the DOD authorization such as the V-22 Osprey.

Four V-22 test planes have flown a total of 160 hours. However, the committee report on the V-22 notes, "Commitment to procurement now would violate the concept of fly before buy which will help reduce the funds that have frequently been wasted as DOD has urgently pursued acquisition programs on a highly concurrent basis."

Mr. President, the next sentence in the report is almost prophetic: "With the changes that have taken place in the world, there is time to proceed more cautiously on most development programs, including the V-22."

Why should Congress not apply the same standards to the B-2, a much more revolutionary aircraft in its design? Congress should suspend production in fiscal year 1991 until more test results are available.

Mr. DURENBERGER. Mr. President, today I will vote to support the Armed Services Committee position on the B-2 bomber program. I remain concerned regarding the very high cost of the aircraft program, especially in the tight budget environment in which we must work. And the strategic threat against the United States may be reduced, at least for the near term.

But I believe it is still essential for the United States to retain a fully capable strategic nuclear triad in order to deter any strategic aggression against us.

The proposals put forth by the Armed Services Committee are based on sound, prudent, and reasonable considerations and premises. The amendment offered by Senators NUNN and WARNER, which I have supported, provides funds for production of the B-2 through fiscal year 1991. It does not imply, however, that we will produce the full complement of 75 bombers that the administration has requested.

Rather, it establishes a long series of performance criteria that the B-2 must meet before we will commit to producing any more aircraft. It is fully consistent with the committee's guideline of "fly before buy."

The committee suggests, and I agree, that the additional testing that is planned for the coming year will provide critical data necessary before we decide to proceed further with a B-2 commitment on the order of the 75 requested by the President. Under the Nunn-Warner amendment, no procurement money will be expended if the bomber does not meet the performance requirements.

Mr. President, returning to the B-2's price tag, I am concerned about its costs, but I believe it is important for us to consider that approximately one-half of the currently estimated total program cost has already been invested. No matter what the United States decides regarding future production, this initial investment is irretrievable. It's a sung cost.

Further in this context, we have to consider that the per unit cost that we all hear so much about—$840 billion—includes all the research and development costs. That's by far the most expensive part of the overall program. Most of that R&D effort has been completed. The cost to produce the remaining aircraft, excluding the R&D costs, will be substantially less per unit than most of the public debate would indicate.

As I understand it, the per unit cost of the remaining B-2's will be approximately $450 million per copy. Still expensive? Yes; but not the exorbitant price we hear so much about. According to the distinguished Senator from Georgia, who spoke so persuasively in support of the B-2, this figure of $420 million a copy is only three times as expensive as a Boeing 747 jumbo jet. Placed in this context, I don't believe the B-2 is quite as expensive as currently advertised.

In addition, according to the Air Force, canceling new production after the first 15 aircraft, as the Senator from Vermont has advocated, would cost an additional $8.7 billion. The Air Force further contends that the total investment—initial costs and the additional $8.7 billion—would provide the 15 B-2's, but would represent virtually no combat capability. I think it is important to keep these considerations in mind.

Regarding the B-2's strategic necessity, I restate my firm belief that the United States must maintain a credible strategic nuclear triad, including the bomber leg, in order to maintain an adequate nuclear deterrent. The Air Force, Secretary of Defense, and President of the United States all maintain that the B-2 is essential to retain a meaningful bomber leg of the triad well into the next century.

Within the next year or two, the aging B-52H bombers will no longer be able to penetrate Soviet air defenses. And it is virtually certain that the B-1B bombers will lose their penetration capability sometime early in the next decade.

Without the B-2, and under the current START counting rules, the United States will have 110 cruise missile-carrying bombers that cannot penetrate Soviet air defenses. This would leave us at a distinct disadvantage vis a vis the Soviet Union, which would retain not only a dense air defense network, but also a penetrating bomber force of its own. And of course, we have no air defense capability of our own. I don't think that we should tolerate such a disparity.

I continue to review all the relevant analyses and perspectives in an effort to determine for myself whether the B-2 is essential, or whether other weapons systems, such as the B-1B bombers, can securely perform the same missions well into the future. But I believe the B-2 warrants continued testing and development, and that's why I support the committee's position.

Mr. President, let me add that notwithstanding the currently improving United States-Soviet relations, it is important for us to remember that the United States has always based its long-range nuclear modernization plans on Soviet capabilities, not on short-term declared intentions, which can change overnight.

In this regard, it would be imprudent for us to ignore the reality of the Soviet Union's substantial and powerful nuclear capability. What's more, the Soviet Union continues to invest heavily its own strategic modernization program.

I would also like to comment on the arms control relevance of the B-2 bombers. The United States and the Soviet Union have constructed the START strategic nuclear arms control to favor the bomber leg of the strategic triad. There are good reasons for this. Bombers are correctly considered more stabilizing and less threatening than either land- or sea-based ballistic missiles.

The assumptions under which we have worked to build the START treaty include a B-2 bomber force. Lacking the B-2, we will not be able to take full advantage of the counting rules of the treaty.

Senator NUNN stated in support of the B-2 that our negotiations with the Soviet Union on START would suffer a serious setback if we eliminate the bomber. It might not derail the treaty irretrievably, but it would certainly delay this promising treaty for some time.

Mr. President, permit me also to note that I have consistently opposed legislative efforts that directly effect ongoing arms control negotiations. The President of the United States has stated unequivocally that he believes we need this aircraft, that his negotiating strategy is premised on the B-2 being part of our arsenal.

Mr. President, let me state again that I am not fully convinced that the B-2 is absolutely essential to the future security of the United States. I believe that there are a number of issues still left to be resolved before committing fully to the B-2.

One of the biggest concerns I have is whether or not the B-2 will be able to achieve the performance criteria required to carry out its mission. That's what the Nunn-Warner amendment will provide for—a series of testing and performance criteria that must be met before we'll proceed more fully with B-2.

We need to pursue this next phase of critical testing for such things as Stealth characteristics and terrain-hugging capabilities in order to gain the knowledge necessary to decide how best to proceed. If Stealth can pass these and other tests, that would have an important bearing on our decisions regarding the bomber's future.

The amendment by the distinguished Senator from Vermont would not permit this prudent course of action. It would cut the program entirely, except for completing the R&D program, after the first 15 are built. Using the same formula as the critics use, the per unit cost on the 15 would be about $2.3 billion. The B-2 would certainly then become the most expensive aircraft ever built.

The committee position is prudent, measured, and reasonable. It will permit us to obtain the information and data necessary to make informed decisions about the bomber's fate. I will be following closely the testing during the next year.

Mr. ADAMS. Mr. President, I rise today to discuss what has been an important, if difficult, vote for me to make today. I have voted in favor of an amendment to the Department of Defense authorization bill that would terminate B-2 aircraft procurement. I made this vote advisedly, because a part of the B-2 bomber is made by the Boeing Co. in Washington State and jobs are involved.

The costs of the B-2 program keep rising and we have now learned that this plane's mission is no longer valid. Since the last time I voted on this, our own Government has admitted that the Stealth bomber can't actually hide from radar and that a major contractor has falsified cost and schedule projections. Of major importance, everyone now agrees that we must review our force structure because of the major changes that have gone on in the Soviet Union.

When our country has enormous debts and when we are struggling to reduce our deficit, we must buy the best defense for the money available. This program is just not as high a priority as many others, whether defense or domestic.

When I was faced with a question of building 132 or 15 of these bombers, I chose the lower number, 15. Now I am faced with a choice between 75 and 6, and I am choosing 6, a number that would partially preserve the substantial research and development money already spent on the B-2.

I have supported and will continue to support programs to help protect working people who may need assistance as a result of this type of defense cut. But, the United States can no longer afford a wartime buildup while the cold war is fading into oblivion.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment offered by the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JEFFORDS (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from California [Mr. WILSON]. If he were present, he would vote "no." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—45

Adams	DeConcini	Mikulski
Akaka	Glenn	Mitchell
Baucus	Harkin	Moynihan
Biden	Hatfield	Packwood
Bingaman	Heinz	Pell
Bradley	Hollings	Pressler
Bumpers	Kennedy	Pryor
Burdick	Kerry	Reid
Byrd	Kohl	Riegle
Chafee	Lautenberg	Rockefeller
Cohen	Leahy	Sarbanes
Conrad	Levin	Sasser
Cranston	Lieberman	Simon
D'Amato	McCain	Specter
Daschle	Metzenbaum	Wirth

NAYS—53

Armstrong	Fowler	Mack
Bentsen	Garn	McClure
Bond	Gore	McConnell
Boren	Gorton	Murkowski
Boschwitz	Graham	Nickles
Breaux	Gramm	Nunn
Bryan	Grassley	Robb
Burns	Hatch	Roth
Coats	Heflin	Rudman
Cochran	Helms	Sanford
Danforth	Humphrey	Shelby
Dixon	Inouye	Simpson
Dodd	Johnston	Stevens
Dole	Kassebaum	Symms
Domenici	Kasten	Thurmond
Durenberger	Kerrey	Wallop
Exon	Lott	Warner
Ford	Lugar	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Jeffords, aye

NOT VOTING—1

Wilson

So the amendment (No. 2493) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, we have before us the first Defense authorization bill of the post-cold-war era. The decisions we make this year with respect to the armed services will be especially important, for they will set the tone and pace of our future defense build-down. The committee's reduction of $27 billion in budget authority from last year's level—$18 billion reduction from this year's request—is an indication that the Armed Services Committee recognizes the new strategic environmental brought on by the collapse of the Warsaw Pact.

Some would say, however, that we can make deeper cuts in the defense budget. The Senate Budget Committee, for example, recommends an additional reduction of $3.2 billion in outlays from the armed services mark, which is already $7 billion below the administration's request. But unlike our bill, the Budget Committee's recommendation is not guided by any underlying strategic rationale. As the SASC report makes clear, the additional cuts mandated by the SBC number would be so disruptive as to jeopardize the orderly defense build-down which our SASC bill hopes to set in motion.

An orderly defense transition is imperative for the future of U.S. foreign policy. While we may be witnessing the end of the cold war, it certainly is not the end of history. The United States will continue to play a leadership role in the world. A role that will require a significant level of military strength. Until we have a better picture of the future, it is incumbent upon us to be cautious and pragmatic in the restructuring of our defense establishment—an approach that I believe is enshrined in this bill.

STRATEGIC FORCES

The central components of our national strength remains the nuclear deterrent force. Given the pace of Soviet strategic nuclear force modernization, it is apparent that the Soviet Union also views nuclear weapons as the centerpiece of national power. To this end, I support the committee's recommendation to fund the B-2 bomber program at $4.2 billion. The B-2 is a flexible, multirole bomber that contributes to deterrence stability, is consistent with arms control objectives, and which preserves U.S. power projection capabilities well into the next century.

The B-2 is flexible in that it is the only strategic weapon that can be used before deterrence fails. In other words, it can be launched during a crisis, then recalled when calmer heads prevail. More important, unlike other strategic nuclear systems, the B-2 can be used in a conventional role, as we have done with the venerable B-52. This conventional role will take on increased importance as the United States cuts back on aircraft carriers and other forward deployed assets.

At a time when United States-Soviet relations are improving, the B-2 contributes to deterrence stability by moving both superpowers away from destabilizing missiles, and toward the slow-flying, recallable strategic bombers. This approach is further enshrined in the draft START agreement, which is nearing completion. While I would not argue for the B-2 simply on arms control grounds, it is another important factor to weigh.

The committee's reduction in funding for the strategic defense initiative was anticipated given the overall budgetary environment. What would make these cuts to the SDI program unacceptable, however, would be an attempt by Congress to dictate how these remaining funds should be spent. In this respect, I understand that my Democratic colleagues intend to offer an amendment to the bill that will redirect the SDI program away from the goals established by the President. The intent of this legislation is clearly to foreclose an SDI deployment decision by the President in 1993 as planned.

I intend to oppose this amendment as an attempt by Congress to micromanage the President's No. 1 defense program. More fundamentally, however, this amendment cuts to the heart of the SDI debate: whether we want to develop the technology necessary to defend against ballistic missiles or not. I welcome debate on this important issue and will have more to say on this matter at the appropriate time.

I also have some misgivings about the committee's recommendation with respect to ICBM modernization. Given the unlikelihood of MX rail-garrison deployment, I believe it wasteful to continue to fund MXRG research and development at $548.2 million. Surely there are more important uses for this amount within the strategic forces budget? As for the committee's recommendation that the small ICBM be deployed in Minuteman silos, I find this irrational since the raison d'etre for the Midgetman was its survivability through mobility. Deployment of the Midgetman in modified Minuteman silos does nothing to enhance the survivability of the force. Meanwhile, Soviet mobile ICBM deployments will continue to widen the asymmetry in survivability between United States and Soviet land-based strategic forces.

RESTRUCTURING CONVENTIONAL FORCES

The collapse of the Warsaw Pact has led the committee to rethink our forward deployment strategy. With the threat of surprise attack greatly attenuated, there is no longer the need to station in Europe the large numbers of heavily armored forces that, heretofore, were necessary for the defense of Western Europe. Our Defense authorization bill therefore emphasizes a reinforcement strategy. This means fewer, lighter, and more flexible forces. Greater warning time also means that we can make greater utilization of our Reserve Forces, rather than the more expensive to operate Active Forces. Finally, I agree with the committee that the United States should place emphasis on maintaining the technological superiority of our forces.

Shifting to a reinforcement strategy likely will place greater reliance on NATO airpower to compensate for reduced troop presence. At the same time, it is not unlikely that the United States will lose some of its main operating bases in Germany due to arms control agreements and budget cuts. Existing tactical air power will be strained further by the impending reduction in United States aircraft carrier force levels, which may impact carrier deployment in the Mediterranean. In this context, the relocation of the 401st Tactical Fighter Wing to Crotone becomes essential. As SACEUR Gen. John Galvin testified on June 7, "if there were only two fighter wings in Europe, I would want one to be based at Crotone."

READINESS AND SUSTAINABILITY

As ranking Republican member on the Subcommittee on Readiness, Sustainability and Support I would like to bring to the Senate's attention a number of major changes and reductions in funding that were made by the subcommittee. These changes will have both immediate and long-term effects on military capability.

When the budget was submitted, the force levels and related support dollars were better balanced than in recent years. As a result of the recommended budget reductions, however, we now have inadequate support for the recommended force levels. Some say this is flexible readiness. Others would say that "flexible" is just another word for "not ready." With further cuts in the Defense budget, readiness accounts will be further reduced. Will this condition be "more flexible" or just less ready? Let me caution my colleagues that as we continue to cut the Defense budget we need to establish a better balance between force levels and support funding.

The choice is between smaller cuts in force levels with less than adequate support funding, and greater reductions in force levels but with adequate support funds to ensure they are fully capable. These are the decisions being laid down within this Defense bill. In making these decisions, guidelines and long-term plans should be followed, not short-term, budget expedient, meat-axing cuts.

Despite reductions in operations and maintenance, the committee did increase by $200 million funding for the Defense environmental restoration account to clean up hazardous waste sites. If you add this increase to the base closure account of $50 million, the new strategic environmental research program funding of $200 million, and full funding of DOD environment requests, the total environmental effort in this bill amounts to about $2.2 billion.

Mr. President, to conclude I would quote the famous Italian Air Marshall Douhet, who said: "Only poets make strategy without budgets." If we were to adopt a Defense spending level substantially less than that recommended in the SASC bill, simply because the Senate feels that we need a lower number, then Congress clearly would be making a Defense budget without any clear strategy. Such an irresponsible approach would be fraught with risks for U.S. defense and foreign policy.

Mr. McCAIN. Mr. President, 3 years ago I sponsored an amendment to the Defense Authorization Act to establish a procurement technical assistance program to assist Indian tribes and Indian-owned businesses in pursuing procurement opportunities in the Department of Defense. This program has now been operating for about 20 months and I am pleased to inform my colleagues that it is one of the Federal Government's most successful programs intended for the benefit of Indian people.

In fiscal year 1989 the program began with five project operators and $488,000 in Federal funds. In the first 6 months of fiscal year 1990, the program expended $211,000 in Federal funds through four project operators. Over these same 18 months, the project operators have matched Federal funds with $855,000 in non-Federal funds. Each of the project operators is itself an Indian-owned nonprofit corporation.

During its first 18 months of operation, the Indian Procurement Technical Assistance Program created at least $22.71 of economic benefit for every dollar of Federal funds expended in the program. Over 800 tribal and individual Indian businesses have been provided with training and assistance in marketing and Federal contracting. Program operators located in Washington, California, Arizona, Idaho, Montana, and New Mexico have helped eligible Indian contractors to secure over $15 million in Federal contracts.

More than 1,200 Indian-owned companies have been trained in doing business with DOD and the Federal Government. Over 700 Indian-owned enterprises have been added to the DOD supplier base. Hundreds upon hundreds of new jobs have been created as a result of this program.

The Defense Logistics Agency recently provided me with several examples of the success stories being generated by the Indian Procurement Technical Assistance Program. I would like to share a few of these with my colleagues:

The third annual National American Indian Business Trade Fair was held in Mesa, AZ, on March 29, 1990, in conjunction with the reservation economic summit [RES/90]. The fair was a success with approximately 110 defense prime contractors represented.

An Indian-owned reservation based company was awarded a $500,000 janitorial contract with INEL. The contract has three renewal option years.

The Shoshone-Bannock Tribes, Inc. reported that 100 new jobs were created and 750 jobs were retained as a direct result of assistance provided by a procurement technical assistance center.

Paiute Frozen Foods, Burns Paiute Tribe, Oregon, has increased its annual sales to the DOD by over $3 million as a result of the assistance received from a procurement technical assistance center.

The White Mountain Apache opened the Apache Manufacturing Co. in August 1988 in Whiteriver, AZ. The company is producing thermal insulation blankets for the cockpit of the McDonnell Douglas attack helicopter. The initial contract was valued at $250,000.

Proforma, Inc., a distributor of business forms, commercial printing and brochures, is marketing to Motorola, McDonnell Douglas Helicopter, Garrett Auxiliary Power Division and various military bases in Arizona. Recent sales for Proforma near $400,000.

Atterberry Soil Stabilization received a $539,000 disadvantaged business enterprise subcontract. The company has established bonding capacity in excess of $500,000 and second year revenues for the new firm are expected to top $2 million.

Given the fact that unemployment rates on many reservations often exceed 90 percent, I am delighted that this modest program is generating such enormous benefits. I want to thank all of my colleagues for their support of the Indian Procurement Technical Assistance Program. I particularly want to thank Senators NUNN and WARNER for their assistance in ensuring that S. 2884 provides for the continuation of this important program in fiscal year 1991.

Mr. THURMOND. Mr. President, as the Senate begins deliberation on the fiscal year 1991 Defense authorization bill. I want to take this opportunity to express my views on this pivotal piece of legislation. I say pivotal because the directions set by this bill will chart the course of our Nation's military for the next several years.

Mr. President, although I voted for the authorization bill in committee and will support it on the floor. I have some serious concerns. My primary concern, and that of many other members of the minority, is that the premise for the $18 billion in reductions from the President's budget request underestimates the nature of the threat.

There is no doubt that the Warsaw Pact threat in Europe has significantly diminished, and some reductions to the Defense budget are in order. However, the instability of the Soviet political situation and actual Soviet military capabilities mandate that we maintain a level of funding for defense to deter and counter the still-sizable Soviet military capability, particularly given the domestic unrest and unpredictable situation in the Soviet Union.

The Soviet military capability is growing despite the Third World economy of the Soviet Union. In 1989, the Soviet Union produced 2,600 pieces of artillery—almost 10 times more than the United States—and 1,700 tanks—almost three times United States production. In terms of submarines, 1989 was the most productive year for Soviet submarine production since 1980. The first large Soviet aircraft carrier began sea trials during the past year, and three different advanced Soviet aircraft conducted carrier landings and takeoffs. This is a significant advance in the Soviet Union's power projection capability.

In the strategic arena, by everyone's standards, the Soviet Union is making a concerted effort across-the-board to modernize its strategic forces. This modernization effort includes two mobile ICBM systems, a much more capable SS-18 heavy ICBM, improved submarine-launched ballistic missile systems, and two bomber programs. This modernization effort is best illustrated in the fact that, in 1989, the Soviets produced 140 ICBM's to our 12.

The bill, in my judgment, also underestimates the ever increasing capabilities of Third World countries such as Libya, Iraq, and other nations in the volatile Persian Gulf region. The increased capability in this region includes modern sophisticated aircraft, tanks, and ballistic missiles. Most importantly, however, is their capability to produce, and demonstrated use of, chemical weapons, the poor nation's nuclear weapon.

I should not have to remind this distinguished body of the Persian Gulf region's strategic value and volatility. The oil produced in this region lubricates the economy of every industrial country. We have a vital interest in maintaining a strong military presence in the region to ensure that the flow of oil is not interrupted.

As the ranking minority member on the Subcommittee on Strategic Deterrence and Nuclear Forces, I am deeply disturbed by the Soviet strategic offensive and defensive force modernization and capability. Although the committee report indicates that the bill maintains nuclear deterrence at lower levels and with greater stability, it reduces our deterrence capability by terminating or reducing funding for several key programs.

The most critical and irrational termination was the Milstar program. Milstar is the only U.S. satellite communication system capable of providing assured communications to our strategic and tactical forces worldwide. It was specifically designed to ensure that the United States has the survivable means to recall forces immediately and terminate hostilities.

During the Grenada invasion, the Congress made light of military's inability to communicate; yet when the Defense Department develops a system to provide worldwide, interoperable communications under the most adverse conditions; we cancel the program. Mr. President, I will support—and urge my colleagues to support—an effort to reinstate this vital program.

Key to maintaining an effective nuclear deterrence, albeit at a lower level, is the ability to produce the components to modernize our nuclear weapons. In eliminating all funding for the Plutonium Recovery Modification Project at the Rocky Flats plant, the committee has virtually assured that we will not be able to produce the components for W-88 warheads. The implication of this action is that we are faced with the prospect of deploying the Trident submarine without this modern, safe, and more capable warhead.

Finally, I am concerned about the significant reduction to the Strategic Defense Initiative Program. The nearly $1 billion reduction in the SDI Program will severely limit the program to research and development. It will make it very difficult for the President to make an informed decision regarding deployment of Phase 1 by 1993, as has been the goal.

I want to emphasize that the importance of the SDI Program has not diminished. Not only is the Soviet Union continuing to modernize its ICBM capability, but the threat posed by Third World ballistic missile development increases the need for the SDI Program. Director Webster testified before the Armed Services Committee that, by the next century, over 20 Third World nations will have a ballistic missile capability. We cannot ignore this threat or the potential of an accidential launch of one of these missiles. We must ensure that this threat is minimized by deploying a missile defense system as envisioned by the SDI Program. I urge my colleagues to support the effort to restore funding for this critical program.

Mr. President, aside from my misgivings on some aspects of the threat assessment and proposed reductions, the overall bill, as crafted by the Armed Services Committee under the able leadership of its chairman, Senator NUNN, and the ranking minority member, Senator WARNER, represents our best effort. Both the House and Senate Budget Committee alternatives would require much more drastic cuts to our Nation's existing defense programs. I am strongly opposed to the budget levels recommended by the budget committees.

S. 2884, the National Defense Authorization Act for fiscal year 1991, contains many innovative approaches to maintaining readiness and maximizing the $289 billion authorized in this bill. I am especially pleased with the emphasis on flexible readiness, fly before you, and greater reliance on reserve forces. I am so pleased with the provisions which provide assistance to those men and women who will be involuntarily forced out of the services because of the fiscal crisis facing our Nation. It is ironic that those who have contributed so much toward winning the cold war will suffer the most.

Mr. President, I ask my distinguished colleagues to consider my thoughts during their deliberations on this defense budget. We must not engage in further cuts to the defense budget crafted by the Armed Services Committee. The committee has made tough choices to secure the highest quality of military capability during this time of seriously reduced military spending. We must ensure that, while we won the cold war, we do not lose the peace.

Thank you, Mr. President.

Mr. NUNN. Mr. President, I would like for my colleagues, particularly the Senator from Virginia, to be fully cognizant of the time agreement I am about to propound.

Mr. WARNER. Mr. President, will the Senator from Georgia yield for an observation.

The Senate has gone through a tough vote, and I want to be on record a commenting that the distinguished Senator from Maine fought a good, hard, tough, fair battle.

Mr. NUNN. I would certainly agree with that. The Senator from Maine is always very formidable. I strongly prefer that he be on my side of any issue, and I am always very dubious about my own position when I have to oppose him. But after doing thorough research, I do think we were on the right side of this issue.

Mr. COHEN. I thank the Senator for being so gracious in victory.

Mr. SARBANES. Mr. President, how does the Senator know what he would have said had he won the vote?

Mr. EXON. Mr. President, reserving the right to object, and I shall not, I also want to compliment the Senator from Maine.

PRIVILEGE OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that my staffer Bob Carnevale have floor privileges during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. NUNN. Mr. President, it is my hope that we can now move to an amendment by the Senator from Illinois, Senator DIXON, on the base we call the Crotone base which is the NATO base in Italy.

It is also my understanding that the Senator from Illinois is willing to enter into a time agreement of 1 hour equally divided. It is my understanding that the Senator from Washington State, Senator GORTON, who will be engaged on the other side of this amendment, is willing to enter into a 1-hour time agreement. So it would be my intent in just a moment to propound that request.

I wanted to let everyone know what we are doing. It would also be my intent to try to go to the SDI amendment this evening. We have a very important debate on that. I would hope we could do it in about 3 hours, and at some point I will be asking for unanimous consent on that.

It appears that there is a problem at the moment. I hope that problem will be alleviated and we can complete that SDI debate tonight.

I say to my colleagues if we can do that, we will have really taken on the two hardest issues and with a reasonable day tomorrow, we plan to get started early in the morning tomorrow, we would be able to by tomorrow or evening late see the daylight at the end of the tunnel on this bill. I think we would be able to pin down the other amendments and finish this bill sometime Saturday morning. That would be what we can accomplish if we are able to get SDI up tonight.

If we do not get SDI up tonight, we will pour over and have 9 or 10 hours of debate on that tomorrow. We are going to be here a long time.

The majority leader still assures me that it is his firmest intention to complete this bill before we go home for the recess.

So I would like to pose that unanimous consent but will not do so until the Senator from Virginia——

Mr. WARNER. And the Senator from Washington who is going to manage this amendment. So far as I know, the 1 hour is agreeable. I would ask the Senator to proceed with the amendment with the understanding that in all likelihood we will get the 1-hour time agreement.

Mr. WALLOP. Will the Chairman yield?

Mr. NUNN. I am glad to yield.

Mr. WALLOP. Mr. President, I have never threatened to and do not at this moment threaten to filibuster. I will guarantee the Senator I will not. I have no intention of filibustering the SDI bill.

But this is the quintessential argument over whether or not the United States shall have the ability to defend itself. It is not a simple amendment of earmarking. It is a question of whether we will or will not have the ability, and 3 hours simply would not do it.

I do not mean to delay it. But the fact is that this is the key argument which needs to be laid in front of the American people as to whether or not we can use the technology that we know that we possess to defend them or whether we go back into an enforced stall on the ability to demonstrate to ourselves and the world that which we know how to do, and move to the arms control posture that the administration, the Secretary, and others have laid down as important to the United States; namely, the statement of Secretary of State Jim Baker, and Foreign Minister Shevardnadze, that we need to move to a more stable arrangement, and balance between defenses and offenses.

Unfortunately, there is not a simple set of arguments. I really do insist that we be able to give ourselves the time so that those arguments can be laid not only in front of everybody in the Senate, but in front of the American people.

I have no intention of trying to delay this thing. But it is not a simple question of whether we earmark it or not.

Mr. NUNN. I say to the Senator that I do not in any way disagree with his description of this amendment as being very important. I think it is important.

The Senator from Wyoming has been a very faithful member of our committee. He has cooperated in moving this bill. I do not in any way believe he intends to delay the SDI debate. I know he is very concerned about it.

I would ask this question: One possibility, and as the Senator knows, we have one of the principal proponents of the amendment that will not be able to be here tomorrow because of illness in the family. I know there are a couple of Senators absent that would also like to participate. One possible way of handling this amendment, and it might accommodate everyone, is if the Senator could indicate the amount of time he thinks it will require.

We could debate it for a couple of hours tonight, hold it over until Saturday morning, debate it for a couple of hours on Saturday morning, and then come to a vote on Saturday morning.

It is very important though that we pin down some kind of time element if it is 4 hours, that would be acceptable; 5 hours, that would be acceptable.

We could divide whatever time we needed between tonight and Saturday morning. Of course if anybody wanted to debate it sometime tomorrow we could debate it. But unless we conclude it tonight we really cannot conclude it until Saturday morning.

Mr. WALLOP. I do not anticipate that it is going to be possible to conclude it tonight. With all sense of deference to the Members of the Senate who will be here for a lot of other reasons, it does not make sense to try to do that.

My preference of course would be to have the debate occur as a whole. My own view is that it probably would take less time without a time agreement than it would with a time agreement, and just have the Senate do it over the course of time.

But if the Senator is intent upon starting it, I clearly will participate in that. But I do not anticipate in any way that we could finish it tonight.

Mr. NUNN. Would the Senator be amenable to doing that amendment in its entirety Saturday morning, for instance, if we took 4 hours, set it aside now, 8 o'clock in the morning Saturday until 12 o'clock, or from 8 o'clock until 1 o'clock, so we would know we could complete it then?

Mr. WALLOP. At this moment, I say to the leader in all sincerity, I do not think that is a wise thing to pin ourselves into. I wish to talk further with the administration, the distinguished Senator from Virginia, as well as the Senator from Georgia.

Mr. NUNN. I thank the Senator. In the timeframe we are in now, it would be my feeling that we would not go to the SDI amendment now, would not be productive because we could debate it tonight for hours, and hours, and hours and then debate it tomorrow for hours, and hours, and then we would be with a situation where we will not handle anything else.

So I would hope that we could take up the Crotone amendment.

I see the Senator from Illinois on the floor.

Mr. WARNER. Mr. President, we are prepared to concur in a time agreement of 1 hour equally divided.

Mr. NUNN. Mr. President, I ask unanimous consent that the Dixon amendment become the pending amendment when he lays it down, and that it would be the time agreement of 1 hour equally divided between Senator DIXON, and the managers of the bill; that there be no amendments thereto.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Illinois is recognized.

AMENDMENT NO. 2495

(Purpose: To prohibit use of funds for construction in connection with the relocation of any function of the DOD located at Torrejon Air Force Base, Spain, to Crotone, Italy)

Mr. DIXON. Mr. President, at this time I am sending to the desk an amendment, upon which I am joined by Senator HOLLINGS, Senator BRYAN, Senator BINGAMAN, and Senator SHELBY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. HOLLINGS, Mr. BRYAN, Mr. BINGAMAN, and Mr. SHELBY, proposes an amendment numbered 2495.

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. PROHIBITION ON USE OF FUNDS IN CONNECTION WITH RELOCATION OF FUNCTIONS FROM TORREJON AIR FORCE BASE, SPAIN, TO CROTONE, ITALY.

Funds appropriated to or for the use of the Department of Defense, including funds appropriated for making contributions to the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may not be obligated for construction in connection with the relocation of any function of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

Mr. DIXON. Mr. President, I thank the clerk for reading that amendment. Ordinarily, I would not do that, but the amendment is self-explanatory.

The question of the base at Crotone, Italy, is an issue around here that has been around for several years, Mr. President, and it is an issue that we have dealt with in the Armed Services Committee on several occasions.

This particular issue, I might say to my colleagues, is an issue in the Subcommittee on Readiness, Sustainability and Support, which I chair, because it has to do with a military base in a foreign country, and the subcommittee I chair is jurisdictional on all domestic and foreign bases.

The Senate should know that the House has already done what this Senator wants to do with this amendment that is now before the Senate; that is to say, that this country will not spend any money for the development of a new and, we think unnecessary, base at Crotone, Italy.

It depends upon who you listen to, Mr. President, as to how much money will be saved by the adoption of this amendment. But the Department of Defense and others admit that at least a minimum of $320 million is involved. The cap that we put on this last year, I think, involved a cap on $370 million, and I suspect that the price is higher. I would not be surprised in the long term if we are not talking about somewhere around a half-billion dollars here for the creation of a new base, in

my view, totally unneeded, in Crotone, Italy.

Mr. President, interestingly, the occupant of the chair is one familiar with this issue. We have dealt with it in the past. There is overwhelming opposition, I think, in the Congress to going forward on this base.

I did not have this amendment adopted in the subcommittee which I chair, nor did I attempt to press it in the committee where I, of course, serve, simply because I thought it was a matter properly brought before the entire Senate.

Let me tell my colleagues this: We have closed, as everybody knows, 89 bases recently, domestically, in the United States.

The Secretary of Defense has suggested another list this year. To date, we have had no significant base closings overseas.

General Galvin told me recently that he would shortly send a list of 100 bases in Europe to the Department of Defense to be closed. It may surprise my colleagues when I tell them that there are a thousand bases, big and small, outside of the continental limits of the United States.

General Galvin is suggesting closing 100 of them. He has sent a letter to the Secretary of Defense, which was revealed in a front page article in Stars and Stripes on July 23, carrying out what he assured me by telephone sometime ago he would do, suggesting the closing of 100 bases. That has not yet been revealed to those of us either in the committee or in the Senate, generally, or in the Congress, generally.

But this particular issue pertains to 72 F-16 fighter planes now based in Torregon Air Force Base in Madrid, Spain. The Spaniards have kicked us out of there. Spain not only kicked us out of there, incidentally; they asked us to pay the severance for people that lost their jobs, because Spain kicked us out of Torrejon Air Force Base, and now the European Command would like to open a brand new base in Crotone, Italy.

The general feeling is, I think, that is unnecessary. We have bases all over the world. We have air strength in the Mediterranean, as everybody knows, and, in my view, sufficient protection there to warrant not spending additional money on a base at Crotone Italy. I think at a time when we are going to bring home hundreds of thousands of people from Europe and all over the world, it is ridiculous to spend hundreds of millions of dollars of American taxpayers' money on a new base at Crotone, Italy.

In this bill, we direct the reduction of combatants in Europe by 50,000. There are 305,000-plus dependents—one-half million. We are bringing 50,000 home right now in this.

All of us know that the President, in his State of the Union Address at the beginning of the year, discussed bringing the number down further, and even in the talks we are carrying out right now in Europe. In addition, I think it is fair to represent to you that it is the feeling of most of us, including, I believe, the chairman of the committee—although Senator NUNN would have to address that on his own—that ultimately the reduction should be to 75,000 to 100,000 in Europe.

I think this is totally unnecessary. I say again that the House has already directed a prohibition of the expenditures of these funds. I have no problem if they want to put these F-16's elsewhere under more reasonable circumstances at bases that now exist, at no cost, in other parts of Europe. My personal preference would be that we bring these 72 F-16 aircraft home. But that is a question for the administration.

We clearly ought not to expend this money.

Others of my colleagues may want to come here and be heard.

In the meantime, Mr. President, I yield the floor at this time, reserving the remainder of my time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following consultation with the distinguished Republican leader, I am about to propound a unanimous-consent request. I ask unanimous consent that the time I consume not be charged against his amendment.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers a resolution condemning Iraq's invasion of Kuwait, to be offered by Senators PELL and HELMS and others, that it be considered under the following time limitation: 40 minutes for debate to be equally divided between Senators PELL and HELMS; no amendments or motions to commit be in order; that when all time is used or yielded back, the Senate, without any intervening action or debate, proceed to vote on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2495

The PRESIDING OFFICER. Who yields time on the Dixon amendment?

The Senator from Virginia.

Mr. WARNER. Mr. President, had the distinguished Senator from Illinois concluded his remarks? I did not mean to intervene.

Mr. DIXON. May I say to my friend, the manager on this side, I completed my preliminary remarks. I do not know how much time I utilized in that. I guess I have 30 minutes.

The PRESIDING OFFICER. The Senator has 23 minutes and 29 seconds remaining.

Mr. DIXON. I thank the chair.

Mr. WARNER. Mr. President, I yield to myself such time as I require.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, just a short time ago the Senator from Virginia received a call personally from the commander in chief of the European Command, the NATO Commander, General Galvin, reinforcing what he had already advised the Senate Armed Services Committee and now wishes to inform the Senate as a whole, that of the 12 bases he has today operating aircraft he would select Crotone, along with one other base, two bases and one would be Crotone in terms of his priority.

As the threat in Central Europe now recedes in light of the dramatic and courageous advancements made by the East European countries toward democracy, it is the flanks of NATO that provide the greater instability.

Although the conflict between Iraq and Kuwait is not within the periphery of the NATO jurisdiction, exactly, it nevertheless points out dramatically the instability that prevails throughout the region of the gulf and into the southern Mediterranean and on up into the southern flank of NATO.

It is for that reason that General Galvin wishes to advise the Senate that this would be his top priority given the reductions that he and others face in terms of our forces deployed abroad.

The Senator made a reference to the dollars involved. I ask my good friend from Illinois if this statement is not correct, that the proceeding that we are now looking at, namely the amendment of the Senator from Illinois, has absolutely no budgetary impact. Does the Senator agree with me on that?

Mr. DIXON. It does not have any budget impact on this budget. But it is American money that will be usefully employed by the NATO Command to do this. This is $300 million minimum and up to as high as $500 million American money. I do not say that is a budget impact this year. But Americans are going to pay the money.

Mr. WARNER. If the Senator will bear with me, the answer to the ques-

tion of the Senator from Virginia is correct. It does not have a budgetary impact. The funding for this particular base will come from the NATO infrastructure. There is no money for Crotone in the 1991 defense budget. If the money in the infrastructure account is not used for Crotone, approximately $700 million, it would be used on other NATO infrastructure. No funds would return to the United States.

Equally important politically, a U.S. decision to withdraw the 401st would be very damaging—and I emphasize that—very damaging to the relationships which are highly valued between Italy and NATO. Despite the recent changes in Europe, the NATO allies remain strongly supportive across the board of the Crotone Air Base facility.

Further, the 401st represents the only U.S. tactical aviation presence, and 4 percent of the total third generation NATO aircraft in the southern region.

Because of its dual capable role, the 401st accounts for 75 percent of the southern flank's airborne nuclear deterrent. And that is becoming more and more critical as we begin to withdraw the ground forces and the associated nuclear deterrence with those ground forces, that is the ground base nuclear deterrent; we then turn for emphasis on the doctrine of flexible response to the air capability.

This base provides dual capable roles for the 401st and accounts for 75 percent of the southern flank's airborne nuclear deterrent. With the anticipated reduction in U.S. land-based nuclear systems in Europe, again associated with the drawdown of the ground troops, this role takes on additional importance.

From a forward deployed position unplanned contingencies both in the European theater and surrounding Mediterranean and Middle East region can be met on an instantaneous basis. With the basing in the continental United States, deployment of just the first squadron would take 8 to 10 days, critical, very critical often in these flash points of confrontation comparable to the one we are now witnessing in the Persian Gulf between Iraq and Kuwait.

Placing the 401st in the reserves would further increase mobilization time and would serve to prevent the unit from performing its critical nuclear mission. The NATO decision concerning the cost share of Crotone represents the first time—and I underline—the first time the alliance has agreed to use infrastructure funds for construction of a peacetime air base.

Previously the infrastructure account had been used to fund only minimum essential wartime facilities.

Mr. President, this was a decision that was carefully considered by the Senate Armed Services Committee. Of course, the Senator is perfectly within his rights to bring this amendment in the course of deliberation of the bill on the floor, but I urge my colleagues to follow this debate very carefully because it has long-term impact on the relationships and the credibility of the United States as we continue to fulfill our role as a full NATO partner.

There is absolutely unquestioned adherence to the needs of this base from the President, Secretary of Defense, and Secretary of State. The National Security Council has considered this issue. I say to my friend from Illinois I hope he weighs carefully the impact of this decision on the future relations between the United States and our NATO partner.

I yield such time as the Senator from Wyoming requires.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it is seldom in things military that I particularly disagree with my friend from Illinois. The first is that the Senate should be aware that what we do not spend on Crotone will be spent by NATO as infrastructure money. It is already committed. It is committed; obligations of infrastructure. It is not whatever may seem a cost that is not going to be incurred. This is a commitment of the United States to the NATO infrastructure and therefore will be spent.

But I call my friend's attention to the map over there and the bottom base. This is a map of all the bases in Europe. The bottom shows Crotone at the bottom of the boot of Italy.

I suggest that had we not first been involved in Crotone under earlier circumstances and arrangements that we would under no set of circumstances have chosen Torrejon over Crotone. Its strategic location of the defense of the southern flank of Europe and United States interest in the Mediterranean is absolutely imperiled.

The other basic worry that I have about the Senator's amendment deals directly with our relationship with NATO that none of us can predict for the next decade or even half decade. Events in Europe are moving so terribly quickly. But the strategic threat that Europe faces, not the conventional circumstances, is not only undiminished but increasing.

As we move into these astonishingly turbulent times in the relationship between allies as well as the new strategic and conventional circumstances that face us, it would seem more than unwise, it would seem really genuinely foolhardy for the Congress of the United States to make a policy, an irreversible policy statement to our NATO allies while they are struggling with the innumerable new sets of circumstances that confront them.

We now have or will soon have a new and newly united Germany with Warsaw Pact forces and Soviet troops in that country, as well as German troops and NATO troops in that country. This is a complicated time for the foreign and defense ministers of the various countries who have been allies since the close of World War II.

It is not a time for the United States to back off on its word and commitment. It is not a time for the United States to toss a wrench into the machinery of NATO, which is not now, by anybody's admission, smoothly running. It is not smoothly running because the circumstances which NATO confronts are different from any which it has confronted in its history. And it may well be that at some moment in time the alliance which has maintained the longest period of peace in Europe in Europe's history may seek to dissolve itself.

But the Congress of the United States ought not to be the instrument of that dissolution. and I say to my friend that I think he runs a very strong risk of creating a chain of circumstances amongst our allies that would lead to that very circumstance.

If we separately in our collective alliance and in our democracy compete with each other on the threshold of unilateral disarmament, I suggest to my friend that nobody is the winner other than that broken giant called the Soviet Union.

We should not make these policy decisions here. We should not challenge the relationship between allies by unilateral action. Every single one of our allies support this relocation and are counting on the United States to see it through on our commitment and on NATO's collective commitment.

I once again say to my friend that no matter what he may think, this infrastructure money is already committed to NATO. The Defense Department has personally assured the Congress and all of us that there is no backsliding on the part of any ally or its commitments.

It would be unwise economically, diplomatically, and militarily, for the United States to reverse its position on Crotone after our allies, and in particular the Italians, have made the difficult political decision to make this move a part of the new NATO Alliance.

The return of the 401st Wing to the continental United States would be viewed by our allies and our adversaries alike as dramatically weakening our commitment to NATO, as well as our ability to conduct the defense of Europe in conjunction with our allies from the southern flank.

And we are witnessing, and nobody denies it, the reduction of the Soviet Warsaw Pact threat in the central region. But we still face enormous—and I am sure my friend, with the events in Iraq and the known instabil-

ity of Libya and other countries in the northern reaches or the southeastern reaches of the Mediterranean, would agree that there is basic instability and an enormous threat to the security and commercial and diplomatic interests of the United States, threats that cannot be confronted by a 401st based in the United States, and abandonment of the United States collective commitment to the whole security of Europe.

This is the region of Europe that shares the longest common border with the Soviet Union. And my friend knows, he has seen the intelligence, that there is no diminution of the Soviet strategic effort.

These are part of the strategic confrontation which has ensured and which continues to ensure the peace until such time as the relationship between the United States, the Soviet Union, the Western allies, and the Soviet Union and her allies materializes in much more clear terms than it is now. They are committing forces and money to their continued strategic buildup unlike any that they have done before.

Our U.S. Ambassador to NATO for burdensharing recently wrote that the presence of dual capable planes at Crotone ensures stability in the most volatile part of the world in which American and Western allies confront the common threat.

The 401st Tactical Fighter Wing is the only U.S. wing forward deployed, or would be, on the southeastern flank of NATO. Torrejon is gone. Crotone is not yet. Absent the two of them, there is no U.S. presence available to and cannot be contrived on the southeastern flank.

There exists, as I am sure my friend knows, a daily alert casting within NATO of which the 401st shares a part. This would have to be removed to other units. But removing it to other units removes as well the capability that we have committed to our NATO allies to participate with them in deploying.

Congress is not, the Senate is not, the place to make those decisions. We have defense ministers. We have foreign ministers or Secretaries of State; we have Prime Ministers and Presidents who rightly do those things.

For the U.S. Senate to act unilaterally outside the heads of any of those countries would, I think, be a tragedy of enormous proportion. But the biggest tragedy is that it leaves the United States' interest in the Mediterranean and the southern flank of Europe open, disregarding NATO completely, without a capability to ascertain our presence. When that is gone, should the amendment of the Senator prevail, when that is gone, I say to my friend, it is gone for good. We will not return. There will be no fast airlift that can bring us back.

And because of the dual role of the 401st, 75 percent of the southern flank's deterrent capability either exists or is gone. We have had, I say again, the longest period of peace in the history of Europe. The U.S. citizens, its taxpayers, and its soldiers have proudly been a part of making that happen.

This is a commitment that we made to our allies, and it is simply not possible for us, in any responsible way, to walk away from that, and especially, I say again, since there would be no savings for the people of the United States; our infrastructure budget is committed.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. I yield 5 minutes to the distinguished chairman of the Budget Committee, the senior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. SASSER. I commend the Senator from Illinois for proposing this amendment. I might say when the base at Crotone was initially proposed at NATO, I participated in those negotiations to some extent. It was the first time we insisted NATO pay one-half of that base at Crotone. But since that time the world has changed dramatically. I think the requirement for an $800 million F-16 base in Italy is simply not there any more.

I contacted General Galvin, the Chief of NATO, and suggested if there should be a continuing military requirement for a F-16 base in southern Europe, that we should move to a minimal base, simply an airfield, and rotate F-16's out of the United States to be located at that base on a temporary basis.

General Galvin turned down that request. The Air Force is insisting on going ahead with the original Crotone scheme.

The Crotone base is a very interesting base. it has been referred to by some in Europe as a theme park as much as an airbase. When we look at the schematics, we can see why. This $800 million Air Force installation contains, among other things, a skeet and trap range, a rod and gun club, of course the traditional officers club, a youth center, both elementary and high schools. It also has a large block of land set aside for future recreation which I am reliably advised would be the golf course.

It also contains very adequate shopping facilities. It has a mall which contains a shoe repair shop, TV-radio repair, a tailor shop, laundry and dry cleaning, a new car sales facility, of course a barber and beauty shop, watch repair shop. Then the main exchange, the post exchange, has a flower shop, gift shop, toyland. Then the base theater, of course, Mr. President, and the book store. The mini mall contains an auto parts sales facility, a videotape rental facility, an exchange vending warehouse. Then we come to the auto service center where there is a vehicle wash for the washing of private vehicles, a service station for fueling and servicing private vehicles, then, of course, a hotel, a secondary child development center, library, education center. The hotel contains a car rental facility. There is a physical training facility, and on and on.

Mr. President, that is one of the things that prompted my request to the Supreme Commander of NATO, that, if, indeed, an F-16 presence is necessary in Italy, it ought to be at least with a stripped-down minimalist base, which is an airstrip with fuel depots and ammunition depots, and, beyond that, temporary facilities to house ground crews and pilots as they were rotated in and out of the United States to cover that field. Instead, the Air Force apparently is insisting on going forward with a $800 million gold-plated facility which has been characterized as a theme park.

I want to commend the Senator from Illinois for offering this amendment. Given the fiscal situation of the U.S. Government at this time, we simply cannot afford to be building brandnew bases as luxurious as this one in foreign lands, while we are closing military bases here in the United States.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SASSER. I will be pleased to yield to the distinguished Senator from Maryland.

Mr. SARBANES. As I understand it, the Senator contacted the military and, in effect, inquired as to whether they would have a stripped-down base that would accomplish the military purpose but would not have this tremendous superstructure here that the Senator has just detailed. Is that correct?

Mr. SASSER. That is correct.

Mr. SARBANES. What reason was given for insisting on going ahead? Is this a $1 billion cost we are talking about?

Mr. SASSER. The initial cost is $800 million, I would say to the Senator from Maryland. But in all fairness, our NATO allies have agreed to pick up a portion of the cost.

There have been complaints emanating from some quarters in Europe as to the country club atmosphere that would be designed into this base.

Mr. WARNER. Mr. President, I am certain the Senator wishes to be accurate. Only 28 per cent is the U.S. cost, and the remainder is to be divided among the NATO countries.

In fairness to our colleagues, if the two distinguished Senators wish to dis-

cuss perhaps a reduced facility, then I would squarely ask my friend from Illinois, how could that be achieved if the Senate were to adopt this amendment and there would be no conferenceable item on which to get a reduced facility?

Mr. SARBANES. The response to that is it would be accomplished because I assume the commanders, who have turned down inquiries, that it seems to me are perfectly reasonable as to the extent of this facility, confronted with that situation, would go back to the drawing board and come in with something that makes more sense.

Second, let me say to my colleague, because it is an interesting point, the argument is, well, we are only going to pay 28 percent of the cost of this very expensive facility and the rest of it will be paid by the others. But the others ought to be paying money for other purposes.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator from Tennessee has expired.

Mr. SARBANES. I thank the Senator for yielding for a question.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Has my friend from Tennessee concluded, or does he need additional time?

Mr. SASSER. Perhaps 1 additional minute.

Mr. DIXON. I am prepared to yield to another Senator, but I will be happy to yield another minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. SASSER. I have a very high regard for General Galvin, the commander in chief of the United States forces in Europe. The reason he gives for not wanting to go with the bare base concept is the lack of suitability because this would lead to dissatisfaction, among other reasons, dissatisfaction by the Air Force. Of course, they are trying to retain as many of the air crews as possible in the service.

But I would say, given the attitude of the commander in chief of the United States European Command at this time, we appear to have no alternative except to go with the amendment of the Senator from Illinois to eliminate funding for the Crotone base.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I inquire of my distinguished friend from South Carolina as to the amount of time he would like to have?

Mr. HOLLINGS. I notice the distinguished Senator is limited to time. Three or four minutes maybe?

Mr. DIXON. Four minutes would be excellent. I yield to my friend.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I have a very pointed interest in air bases, Mr. President, inasmuch as DOD is attempting to close Myrtle Beach Air Force Base in my State. Myrtle Beach is worth some $556 million. It is one of the only first-rate fighter fields on the eastern seaboard. Environmentally, the entire eastern seaboard is checkered with wetlands. Try these days to get a new airfield on the eastern seaboard. You will never get one. So Myrtle Beach is especially valuable in this respect. The only reason for its proposed closure is the phasing out of the A-10's.

I was in Europe last year with the distinguished chairman of the Defense Committee on Appropriations. Senator INOUYE and I were talking with the commander in Stuttgart, and we were talking about the proposed base down in Crotone. Everyone in this body should understand that Crotone would be nothing but a staging area. They do not fight off that field. It is to allow the fighters to be staged either in Spain or Italy, in order to fulfill their military mission down in Turkey. Senator INOUYE will well remember.

Instead of 2-week notification of a hostile Soviet move against NATO, we now can expect a year to a year and a half's notice. The distinguished chairman of the Armed Services Committee knows the reasons for this change in warning time. Specifically, now we can get all of the fighter F-16's that we possibly could want to muster for action in Europe from the eastern seaboard, easily refueled by KC-135's from the Charleston base or from Bermuda or the Azores. When we went to alert during the 6-Day War in Israel we did that. We did it again with the Libyan raid, flying all the way down from England to North Africa.

We have carrier groups in and near the Mediterranean to meet NATO's needs in this regard. It is absolute insanity to holler cut, cut, cut here in the continental United States, and then shell out hundreds of millions for a brandnew air base in Europe at exactly the moment when our enemy, the Warsaw Pact, is disintegrating.

I can tell you here and now, the Warsaw Pact is gone. We can rely now on a year's notice or more. We can get any fighter group we need to, over to Europe, to fulfill that mission in Turkey. There is a particular air base that I know of at Myrtle Beach, which is 1,000 miles closer than what DOD is talking about in Louisiana and Arizona.

Yes, I do have a home State interest, but I have an even greater interest in this country, which will pay this bill, and an interest in not wasting $200 million. We are talking about a NATO that is being reinvented in light of a radically reduced threat. We must think anew, and act anew, and appropriate anew, and cut this frivolous nonsense out of the budget. I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 4 minutes.

Mr. THURMOND. Mr. President, I will not take a great deal of time to express my objections to the amendment before us. A similar proposal was extensively debated last year during the Joint Conference and rejected.

Mr. President, I urge my colleagues not to succumb to the call that we should not be building overseas bases while we are closing bases at home. That argument, although politically pleasing, does not take into consideration the military reality.

In my judgment, there is no one more qualified to speak on the military reality than Gen. John Galvin, Commander in Chief, United States European Command. In a letter to ranking minority member of the Armed Services Committee, Senator Warner, the General wrote:

> At a time when NATO forces face major reductions, it is vital that forces remain deployed in a balanced manner. Soviet force reductions in the Central Region have not reduced Soviet capability in the Southern Region. The 401st Tactical Fighter Wing's presence sends a strong signal to all nations underscoring U.S. interest throughout the Mediterranean area. It is absolutely necessary for stability and deterrence in the Southern Region that the wing be based at Crotone. If I had only two U.S. Air Force wings remaining in Europe, I would place one of them at Crotone.

I want to repeat that last statement of General Galvin, "If I had only two U.S. Air Force wings remaining in Europe, I would place one of them at Crotone." Mr. President, that statement was made by the senior military commander in NATO. I would hope that his judgment has some credibility in this body.

In last year's Defense Authorization Act, the Congress authorized continuation of the Crotone project but capped United States expenditures at $360 million for the relocation of any military functions located at Torrejon, Spain, to any location outside the United States. This language protects the U.S. taxpayer from any additional financial burden in building the base.

It is also important to note that proceeding with construction of an air base at Crotone has no budgetary impact on the United States. The U.S. share of the money for the base will come from funds appropriated in prior years for the NATO Infrastructure account.

There is no money for Crotone in this authorization bill. If the money in the Infrastructure account is not used at Crotone, it will be used on other

NATO Infrastructure projects. No funds would be returned to the United States.

Mr. President, regardless of the diminished threat in Central Europe, the threat of turmoil in the rest of Europe—especially the southern region—still exists. Building the air base at Crotone will put our Air Force where it can best meet that threat.

I say in closing that one-half of Europe's oil now travels through the Mediterranean Sea.

Two years ago the United States made a commitment with NATO to move the 401st to Crotone and NATO has lived up to its end of the deal.

United States influence in NATO is premised on reliability and the commitment of forces in Europe. Now is not the time to cut and run.

I think this amendment ought to be defeated, Mr. President.

I hope the Senate will do so.

Mr. President, I yield 2 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 minutes.

Mr. COATS. Mr. President, I thank the Senator for yielding. It takes more than 2 minutes to make the case for Crotone. I think it has been well made, but I will add a few extra points.

How anybody at this particular time, with the conflict that is currently underway in the Middle East, with the tensions that are rising by the hour, could suggest that the United States remove presence from the southern flank of NATO and not have a tactical air availability to deal with potential security threats in the Middle East is beyond me. How we can stand here and say that there is no need for a U.S. or a NATO presence from an air standpoint on the southern flank of NATO, with the tensions rising in the Middle East, just stuns me.

Why this amendment is before us, why we are even discussing this seems beyond belief. Yes, we see diminished tensions in Europe. Yes, we need to reduce our presence there. But if there is one area of the world that the threat is not diminishing but is increasing, not daily but by the hour, it is in the Middle East. For us not to have a presence close to that area, I think, is a disastrous policy.

We ought to be joining in with our NATO allies in this unprecedented acknowledgment and agreement whereby we burden-share the cost of this and, as Senator THURMOND from South Carolina said, no additional funds will be expended because this comes out of an infrastructure account already committed to NATO, and if it is not spent here, it will be spent somewhere else.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. COATS. When the Commander in Chief tells us this is his most important priority, we ought to give him that priority.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia has 4 minutes and 50 seconds.

Mr. WARNER. Mr. President, I will momentarily defer to others, but I want to inquire of the Senator from Delaware if 2 minutes will enable him to deliver his remarks? I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. ROTH. Mr. President, I would like to take this opportunity to congratulate the senior Senator from the State of Virginia for the arguments which he has put forward so clearly in favor of this Nation living up to its NATO obligations vis-a-vis Crotone Air-Base in Italy

Mr. President, this Nation is a member of a highly successful alliance—the North Atlantic Treaty Organization. This 16-member alliance has proved to be a highly successful institution. It has sheltered the democratic nations of the West throughout the cold war and its firmness and cohesion, in my opinion, have done a great deal finally to convince the Soviet Union that its pursuit of the military dominance of Western Europe was futile.

Sometimes, Mr. President, when I listen to our defense debates on the floor of the Senate, I frequently notice that we conduct our affairs as if we were alone in the world, free to act unilaterally, unhindered by alliances and obligations. I say this because membership in an alliance, Mr. President, brings with it responsibilities as well as privileges. Membership in NATO obliges us to live up to our obligations to our allies and to act in concert with them. In the past, we have often demanded that our allies cooperate more closely with us, gearing their defense budgets more closely to ours. In fact, the senior Senator from Georgia and I once came to the floor to inform our European allies that, unless they lived up to their defense budget commitments, we would suggest that the United States reduce its own commitment to Europe.

So Mr. President, having demanded the cooperation and consultation of our European allies in the past, are we now to act unilaterally, spurning the advice of our allies in an effort to act unilaterally? As the senior Senator from Virginia has pointed out, the funds for the construction of Crotone Air Base are drawn from the NATO infrastructure account—an account to which all the members of NATO contribute. Under these circumstances, Mr. President, I would submit that it is much more appropriate that the future of Crotone Air Base be decided by the North Atlantic Treaty Organization—not by the U.S. Senate. If, indeed, as has been alleged, the Crotone Air Base has been goldplated by the U.S. Air Force, then I am sure that neither we nor our allies want to pay for that goldplate. Any concerns we may have on this matter can be dealt with effectively in NATO.

As the senior Senator from Virginia has pointed out, approval of this amendment would not result in any savings in this year's defense budget. Approval of this amendment would merely lead to a redistribution and reallocation of funds within a multilateral account which we have promised to disburse on a cooperative, multilateral basis. It would be a tragedy, in my opinion, Mr. President, if the United States were now to break away from its allies—who have gone to a great deal of trouble to construct a consensus on the Crotone issue—in order to act unilaterally. The Government of Italy, in particular, has gone to a great deal of trouble to see that the 401st can move from Torrejon to Crotone. That Government deserves our thanks, not our humiliation.

I believe that the Crotone project will proceed, Mr. President. If it is not to go ahead, then that decision should be made by NATO—and all the members of NATO—not by the U.S. Senate.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes and 30 seconds left. The Senator from Illinois has 11 minutes and 10 seconds left.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I yield myself such time as may be necessary.

Mr. President, the most amazing statement I have ever heard in my almost decade now in the Senate is the suggestion by somebody on the other side that this does not cost any money. Mr. President, there is no free lunch. This is NATO money. It is mostly our money.

My friend, the manager on the other side, says we are obligated for 28 percent. The truth is Uncle Sam in its usual generosity has agreed to pay 42 percent. They said years ago the base could be built for $800 million. It will cost over $1 billion.

I just want to let the folks in America and back in Illinois, where they closed Chanute and put thousands of people in a town called Rantoul, with 20,000 people, out of work, and real estate values dropped by over 50 percent overnight, look at this base. I would like them to look at it.

Can the camera show it, Mr. President? Can the camera show the golf course down here? A beautiful golf course. Can the camera show the skeet and trap range, Mr. President? Can it show the hotel? Can it show the bar and saloon? Can it show the sports

complex? Can it show the youth center, the high school, the country club?

Listen, Mr. President, I want the folks back home to know how good we do it overseas when we give up a hometown in Illinois.

Mr. President, can they see the boulevards, and the beautiful trees, and all the nice development our Italian friends are going to have next to Crotone Air Base? Oh, Mr. President, a nice shopping center. Hot dog. Oh, boy, a base theater. Wonderful. A bookstore. Nice. Good reading. Snack bar, community recreation facility. Oh, looky there, folks, what we are going to do in Crotone, Italy, that is not going to cost anybody, somebody said. Folks, if you believe that, do not ever vote for me again, if you believe this will not cost anything.

Now, Mr. President am I still on my time?

The PRESIDING OFFICER. The Senator from Illinois has 8 minutes and 35 seconds.

Mr. DIXON. I want to tell you something else. Somebody said you have to have this base in Crotone, Italy, to defend the world. If you went to southeast England, where they would be glad to have us, it is no further a trip for those F-16's. We have the 6th Fleet in the Mediterranean steaming around every day. What are they supposed to be there for with all those airplanes? We have bases in Italy now. We have bases in Greece now. They have F-16's in Turkey.

You are not talking to a dove. I just voted for the B-2, and sustained the Chair on every one of those rollcalls. My friends in this Senate know ALAN DIXON. We are cutting billions out of this budget.

In my subcommittee, the job that the Chair gave me, I kept my credentials by cutting $6 billion. We are working out in the hallway right now with my friend from Michigan, Senator LEVIN, to cut out some more. They want to build golf courses, and country clubs, and saloons, and hotels in Crotone, Italy, that is not going to cost anything. Lordy.

How many minutes do I have?

The PRESIDING OFFICER. The Senator from Illinois has 7 minutes, 25 seconds.

Mr. DIXON. I think I will reserve that and hear what they say in the last 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes and 29 seconds.

Mr. WARNER. Mr. President, if I May in a dispassionate way continue to address what many of us regard as a very serious issue—and to my friend, who is the chairman of the subcommittee on the Armed Services Committee that deals with this, I ask him in the sense of fairness to go back and revisit the question of the U.S. percentage.

The Senator from Illinois used the figure 42 percent. I ask if he would not reconsider. That 42 percent was before Congress imposed a cap last year. That cap resulted in the figure of 28 percent, which is the U.S. allocation of these costs.

Mr. DIXON. If my friend will let me answer, I would like to respond. And he is my friend; I respect him greatly.

Mr. WARNER. Mr. President, will the Senator respond on his time, because we are very short of time.

Mr. DIXON. I will respond on my time, Mr. President, "Review of Construction Plans in Support of Crotone Air Base. Report Submitted to the Committee on Appropriations, United States Senate by the Majority Clerk, Subcommittee on Military Construction, April 1990." Page 3.

"Although the U.S. share of the NATO infrastructure is 28 percent, the United States in this case will provide 42 percent in total base construction."

The $370 million my friend refers to is the cap that we put on last year. All I am saying is take away the $370 million and save $370 million more.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I have handed to the staff of the Senator from Illinois a proposed amendment. The Senator from Virginia sends a copy of that amendment to the desk and I ask unanimous consent it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. LIMITATION ON MILITARY CONSTRUCTION IN CONNECTION WITH THE TRANSFER OF 401st TACTICAL FIGHTER WING TO CROTONE, ITALY

Funds appropriated to or for the use of the Department of Defense may not be obligated for construction in connection with the transfer of the 401st Tactical Fighter Wing to Crotone, Italy, except for construction of such facilities as may be essential to perform military operations, including the operation of aricraft, maintenance activities, billeting for assigned personnel, and other activities required to support deployed operations.

Mr. WARNER. The unanimous-consent request as drafted does not permit the amendment of the Senator from Illinois to be amended in the second degree, but his colleagues brought to his attention the importance of trying to fashion a revision in the Senate bill that would enable the Senate, when it conferences with the House, to at least consider a scaled-down version of this vital base.

I am wondering if the Senator from Illinois would think that would be a wise objective, to give the flexibility to the Senate Armed Services Committee during the course of the conference to revisit this important issue and do so within the framework of an amendment which I am freely suggesting that he craft that would provide the flexibility for the Senate conferees to at least during the course of the conference look at a scaled-down version of this important facility.

So at this time I simply pose to my friend the question—and we will have to go back and revisit the unanimous-consent request—could he perhaps in another way fashion this amendment? Will the Senator answer on his own time?

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. DIXON. May I say to my friend, and I mean no disrespect when I say it, this Senator feels very deeply that this is an outrageous expenditure of public funds in an area of the world where we are well represented by many military bases. I would not want to in any way change the thrust of the amendment I have already offered. I regret to say to my colleague I do not want to do that. He is my friend, and I greatly appreciate his contributions in the committee and in the Senate over the years.

The PRESIDING OFFICER. The Senator from Illinois has 5 minutes and 44 seconds.

Mr. DIXON. I would be delighted to yield some time to my friend from Arkansas. I have 5 minutes left. Would he accommodate me by taking 3?

Mr. BUMPERS. Two or three minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Mr. President, I had no real intention of getting involved in the debate, and as far as the work the Senator from Illinois has done on this, I applaud him. I am not in the league with him in having prepared for the pros and cons of whether we ought to build this base in Crotone, Italy.

But I do want to say that the Senator from Illinois is still properly smarting from a hit he took in his home State by the recommendations of the Carlucci Base Closing Commission. I have been by Chanute AFB, IL, many times. I went to Northwestern University in Chicago, and my wife Betty and I used to find a different way to go back and forth from Chicago to Arkansas to break the monotony. We went through Rantoul every once in a while, near Chanute Air Force Base, one of the oldest in the country.

I will be offering an amendment on base closing during the debate on this bill. Take Mississippi County, AR, 1 of the 10 poorest counties in America, as another example. Eaker Air Force Base, a B-52 base, is located there, and it is on the Secretary's list to close. I

am not saying it should not close, though I don't think it should. I will debate that further later on.

I can tell you that what my friend from Illinois said about Rantoul, IL goes for Mississippi County, Arkansas. The day Secretary Cheney listed Eaker Air Force Base on his base closing list, in Mississippi County, 1 of the 10 poorest counties in America, you could not give a house away there. People quit buying. Retail businesses were at a standstill. Those people, to say they are frightened would be an understatement. They are terrified.

I know bases have to be closed. If they have to be closed, I want them closed in an orderly manner based on what our force posture is going to be for the next 5 years, not some random, sit-around-the-table and have a conversation with oneself. I cannot tell you the economic disaster that this creates in a town of 20,000 people, which is Blytheville, AR, in Mississippi County.

Mr. President, we are talking in terms of human misery. If I wanted to, if I wanted to vote for Crotone, how would I go home and tell the people of my State and Mississippi County and Blytheville that we are getting ready to participate in the building of $1 billion base in southern Italy, while we close or realine 35 bases in this country?

Why do we insist on punishing our own people? We have to have overseas bases. But as the Senator from Illinois has pointed out, we have them. We have lots of overseas bases. We simply do not need as many as we have.

So why not give the American people a break and say——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I hope the Members of this body will support the Senator from Illinois.

Mr. WARNER. Mr. President, at the expiration of the time of the Senator from Illinois, I will move to table. If the Senate supports that motion, it would be the intention of the Senator from Virginia to submit an amendment in due course along the lines with the one at the desk which would enable a scaled-down version of this base and enable the Senate Armed Services conferees to negotiate in conference.

Mr. DIXON. I thank my colleague.

Mr. President, I will simply conclude by saying it has been an excellent debate. I appreciate the contribution of every one of my colleagues on both sides.

I remind my friends again we have the Sixth Fleet in the Mediterranean; we have bases now in Italy; in Greece, Turkey has F-16's. In Torrejon, Spain the F-16's, if they want to keep them in the region, could be sent to the southern part of England. We have plenty of tactical presence in that part of the world. We ought to save this money.

There is an opportunity in a year when we want to save money to save hundreds of millions of dollars. I implore my colleagues to support the amendment that does exactly that.

I yield the floor.

Mr. KOHL. Mr. President, I will vote for the amendment offered by Senator DIXON to prohibit funding for the construction of the United States Air Force base in Crotone, Italy. But I do so with mixed emotions.

Clearly the base, as designed, is inordinately expensive. It is gold plated; even if a base was justified militarily, this base is not justified economically. And in terms of the military justification, we need to review the need for the base in terms of the reduced threat to NATO from the Soviets and the limited role that the F-16's based there would be able to play in dealing with any non-NATO threat. Given these considerations, the military need for the base is not compelling.

I am, however, troubled by the symbolic implications of terminating construction. We want to reduce our military presence in Europe but we do not want anyone to conclude that we have reduced our commitment to Europe. For that reason, I hope that the suggestion made during the debate by Senator WARNER—that the administration submit and the conference consider a more modest base design—will be given serious consideration. But if the choice is between constructing this base as designed and cancellation, then I would be compelled to favor cancellation.

Mr. DIXON. I yield the remainder of my time.

Mr. NUNN. Have the yeas and nays been ordered?

Mr. DIXON. I ask for the yeas and nays.

Mr. WARNER. Mr. President, I move to table, and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—51

Biden	Garn	McConnell
Bond	Gorton	Murkowski
Boren	Graham	Nickles
Boschwitz	Gramm	Nunn
Bradley	Hatch	Packwood
Burns	Heinz	Robb
Byrd	Helms	Roth
Chafee	Jeffords	Rudman
Coats	Kassebaum	Sanford
Cochran	Kasten	Simpson
Cohen	Lautenberg	Specter
D'Amato	Lieberman	Stevens
Danforth	Lott	Symms
DeConcini	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Wirth

NAYS—47

Adams	Fowler	Levin
Akaka	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Grassley	Mitchell
Bingaman	Harkin	Moynihan
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Hollings	Pryor
Burdick	Humphrey	Reid
Conrad	Inouye	Riegle
Cranston	Johnston	Rockefeller
Daschle	Kennedy	Sarbanes
Dixon	Kerrey	Sasser
Dodd	Kerry	Shelby
Exon	Kohl	Simon
Ford	Leahy	

NOT VOTING—2

Armstrong	Wilson

So the motion to lay on the table amendment No. 2495 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, the Senator from Virginia represented that at an appropriate time he would consult with the distinguished chairman of the Armed Services Committee to effect a possible solution pertaining to amendments.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Georgia.

Mr. NUNN. Mr. President, I understand that Senator THURMOND has an amendment that will not take long; Senator GLENN has an amendment; Senator Roth has an amendment; Senator DIXON has another amendment; Senators BINGAMAN, GORE, and MCCAIN have an amendment. So we have five amendments that people are lined up and ready to go on.

I ask the Senator from South Carolina is he willing to have a time agreement?

Mr. THURMOND. Yes; 5 minutes to a side. I think it will be accepted. There is no opposition on it.

Mr. NUNN. I yield the floor. We will take it without a time limit.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the Senator from Georgia enumerated a number of amendments. It was the clear understanding that none of those amendments relate to SDI.

Mr. NUNN. I do not know any relating to SDI. I am not asking unanimous consent.

Mr. WARNER. I am not either. I want to make that point clear for certain Senators on this side. In the judgment of the Senator from Virginia, it is not likely we will bring up the SDI issue tonight.

Mr. NUNN. I think that is probably the right judgment. We really want to get a time agreement when we bring that up. I understand the importance of it. I hope by tomorrow morning we will be able to discuss some kind of time agreement.

Mr. WARNER. I join the chairman in that wish.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2496

(Purpose: To recognize and commend the Battle of the Bulge Historical Foundation in its efforts to create a gallery in the U.S. Army Museum, Fort George G. Meade, MD, to commemorate the Battle of the Bulge)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND] for himself, Mr. DOLE, and Mr. HEFLIN, proposes an amendment numbered 2496.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, line 24, insert the following new section:

SEC. 1216. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION

(a) FINDINGS.—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) Six hundred thousand members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the men and women who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the battle, the participants of the battle, and World War II.

(6) the Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of that battle.

(7) Installation of a gallery at the museum will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set as a goal to raise $1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

Mr. THURMOND. I do not think there is any opposition. I think they will accept the amendment.

Mr. President, Senator DOLE and Senator HEFLIN join me in cosponsoring this amendment, which is similar to Senate Joint Resolution 348, which I introduced on July 13, 1990.

The purpose of the amendment is to recognize and commend the Battle of the Bulge Historical Foundation in its efforts to create a gallery in the U.S. Army Museum at Ft. George G. Meade, MD, to commemorate the Battle of the Bulge.

Mr. President, the Battle of the Bulge Historical Foundation has set a goal to raise $1.5 million in donations to finance the Battle of the Bulge gallery at the Ft. Meade Museum. No public funding will be required.

The Department of the Army supports this effort to commemorate what Winston Churchill described as "undoubtedly the greatest American battle of the war which will, I believe, be regarded as an ever-famous American victory."

Mr. President, I ask my colleagues and the committee to support this amendment and join Senator DOLE, Senator HEFLIN, and me in our effort to commemorate the sacrifices of the 19,000 servicemen killed in this historic battle which ultimately led to our victory in Europe.

Mr. President, to save time, I ask unanimous consent that my July 13 statement on Senate Joint Resolution 348 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND INTRODUCING JOINT RESOLUTION TO SUPPORT THE BATTLE OF THE BULGE MUSEUM AT FORT MEADE, MD, JULY 13, 1990

Mr. President, I rise to introduce a Joint Resolution of the Congress to recognize and support the efforts of the Battle of the Bulge Historical Foundation and to encourage American awareness and participation in development of a museum as a memorial to Americans who fought in the Battle of the Bulge in World War II. This memorial museum will be an addition to the U.S. Army Museum at Fort George G. Meade, Maryland and be named the Battle of the Bulge Gallery.

The Battle of the Bulge (Ardennes-Alsace Campaign in World War II), described by many as the ultimate and decisive struggle between freedom and oppression was fought from December 16, 1944 to January 25, 1945.

In mid-December 1944, the coldest, snowiest month within the memory of those living in the area, three powerful German armies plunged into the semi-mountainous, heavily-forested Ardennes region of eastern Belgium and northern Luxembourg. Their goal was to reach the sea, trap four Allied armies and impel a negotiated peace on the Western front.

Believing that his daring surprise attack would split the Anglo-American alliance, Hitler envisioned the greatest German victory since the time of Frederick the Great.

Mr. President, although the Germans achieved total surprise, the individual American soldiers outnumbered, alone, often surrounded and initially without any form of support—fought valiantly in many small, sometimes individual actions. Every action that delayed the onslaught for even a minute dearly bought precious time—enabling the existing troops to reorganize an adequate defense and permit the redeployment of troops sufficient to stem the German tide and recapture the newly taken German territory. Within days, the determined American stand and the arrival of powerful reinforcements ensured that the ambitious German goal was far beyond reach. In snow and sub-zero temperatures on Christmas Day, the Germans fell short even of their interim objectives—the sprawling Meuse River on the fringe of the Ardennes.

Far from reaching the coast, demoralizing the Allies and setting the stage for a negotiated peace, the German army succeeded only in creating a "bulge" in the American line. While Germany expended irreplaceable men, tanks and airplanes, the battle became the biggest, costliest, most desperate action ever fought by the U.S. Army. Four weeks later, after grim fighting in bitter cold and snow, that bulge ceased to exist.

Mr. President, Winston Churchill would later call the American victory one of the greatest of World War II.

Always cold and tired, all the combatants knew was what they felt. Many men were sent back with frozen hands and feet. The daytime temperature was usually about 15 degrees with a windchill factor of minus 30 or 40 degrees. The foot-high blanket of snow formed huge snowdrifts. Combat continued in fog, ice and rain, and the battleground was rugged, partially mountainous and thickly forested.

Widely recognized as the ultimate turning point in the War in Europe, ensuring Allied victory, the Battle of the Bulge cost both sides dearly. It is estimated that more than one million soldiers took part: 600,000 Americans and 500,000 Germans; German casualties reached 100,000. The Allies lost 19,000 lives, 47,500 were wounded and more than 23,000 were reported missing. Each side also incurred massive material losses; Germany sacrificed more than 800 tanks and 1,000 aircraft.

Mr. President, it was on the 18th of December 1944, that the 82nd Airborne, under the command of Major General James Gavin, entered the Battle, as did the men of the 101st Airborne. The 101st would go to Bastogne. The 82nd went to Werbomont on the north shoulder of the Bulge, which held open the corridor through which Americans escaped. These events have left an indelible imprint on millions of Americans while changing the course of history.

Shortly after the Germans disengaged, a Belgian school teacher reentered his devastated classroom in Champs to find written on his blackboard:

"May the world never again live through such a Christmas night. Nothing is more horrible than meeting one's fate, far from mother, wife and children. Is it worthy of man's destiny to bereave a mother of her son, a wife of her husband or children of their father? Life was bequeathed us in order that we might love and be considerate to one another. From the ruins, out of blood and death shall come forth a brotherly world—(signed) a German officer."

Mr. President, this legacy must be preserved for our descendents. It must remain vibrant in our heritage, so that the sons and daughters of all future generations of Americans may learn about and remember the lessons of this fierce combat which protected their freedom.

As a member of the First Army in the Battle of the Bulge, I personally experienced the horrors and bitter cold of this historic battle. I recall the devastation of the German artillery. Also, at one time, this onslaught of German buzz bombs hit within a short distance from me killing soldiers only two vehicles behind me.

As the keepers of the flame, we must ensure that this brave chapter in our proud history not be lost. We must continually search for ways to help the dangers of oppression from fading from our memory. There must be tangible symbols to remind present and future generations of the harsh reality of the Battle of the Bulge to defeat Hitler's relentless aggression and European domination.

Mr. President, this proposed Museum of the Battle of the Bulge is that tangible symbol. I urge my distinguished colleagues to support this worthy effort by approving this Joint Resolution to recognize the significance of this museum.

Mr. President, I ask unanimous consent that the joint resolution follow my remarks in the RECORD. Also joining me on this joint resolution are Senator Dole and Senator Heflin, and I am sure others will want to join in this worthy effort.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Georgia.

Mr. NUNN. Mr. President, I urge acceptance of the amendment. It has been cleared on both sides, to my knowledge. I would also like to be added as a cosponsor.

Mr. THURMOND. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Georgia, the chairman of the committee, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2496) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the Senator from Delaware is now on the floor. Will the Senator identify the amendment he would like to bring up? I am trying to give our colleagues some idea about how long before a rollcall vote. I ask the Senator from Ohio the same thing, to identify his amendment.

Mr. ROTH. I do not think either one of my amendments will require a rollcall vote. I believe they are going to be acceptable to both sides.

Mr. NUNN. Will the Senator from Ohio identify his amendment.

Mr. GLENN. Mr. President, I have two, one is on the sensitive Government positions pay raise. That will not require a vote. Another one that will be agreed to is on the lab test program, and I will have a colloquy with the chairman on the definitions of the "fly before buy."

Mr. NUNN. Have all of those been cleared?

Mr. GLENN. They have not all been cleared. They are in the process of being cleared now.

Mr. NUNN. If we took up the Roth and the Glenn amendments, I guess there would be a 30-minute period before we have any kind of rollcall. It could be 45 minutes. I cannot guarantee that. It is also my understanding the majority leader intends to bring up some kind of time agreement on a resolution concerning Iraq. I do not know when that will be, but it will be this evening. So we are going to have some more rollcall votes this evening. I know of at least two.

AMENDMENT NO. 2497

(Purpose: To express the Sense of the Senate concerning the closure and realignment of U.S. military facilities in the Federal Republic of Germany)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 2497.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

The Government of the United States has publicly committed itself to the reduction of the military forces which it deploys in Western Europe in general, and in the Federal Republic of Germany in particular;

The United States Army already is drawing up plans for the closure and realignment of United States military facilities in the Federal Republic of Germany;

Many United States military facilities in the Federal Republic of Germany are located on municipal property of high value.

The continuance of cordial relations between the peoples of the United States and Federal Republic of Germany is a matter of major concern, both for the health of United States-German relations and the strength of the North Atlantic Treaty Organization: Now, therefore, be it

The Sense of the Senate that the Department of Defense should, whenever possible, consult closely with the central, state and municipal authorities in the Federal Republic of Germany with a view to closing those United States facilities located in municipal areas with high property values, particularly when those facilities could be developed for commercial or residential purposes.

Mr. ROTH. Mr. President, this Nation has committed itself to reducing the numbers of military personnel and the amount of military equipment which the Soviet Union and the United States currently maintain in Europe. The negotiations which are designed to achieve this end—the conventional Armed Forces in Europe talks, taking place in Vienna—are proceeding and the road before us is clear. United States and Soviet European deployments are going to be reduced substantially and it now behooves us to plan the transition to a much smaller United States military establishment in Europe.

Currently, the bulk of the forces which this Nation maintains in Europe are stationed in the Federal Republic of Germany. Consequently, the FRG will witness the most noticeable drawdown of United States forces over the next few years. This development will, I am sure, be welcomed by the people of West Germany, particularly since the reduction in the military presence will coincide with, and will facilitate, their unification with their fellow Germans in the now almost defunct German Democratic Republic.

Mr. President, though this development may be welcome, it will need to be managed carefully. NATO may be reducing its military deployments, but

it will remain a most invaluable institution. It may take on a more overtly political, as opposed to security, role, but few commentators believe that NATO will be able to abandon all of its military responsibilities completely or to cease deploying some troops on German territory. The task before us, therefore, is to insure that this smaller number of troops remain welcome on German soil.

I believe that the careful management of the drawdown of United States forces in Germany will be crucial in this regard. When studying this question, Mr. President, it is vital to bear in mind that, unlike this country, Germany is, demographically speaking, extremely dense. The stationing of United States troops on German soil, consequently, has an extraordinary impact upon everyday German life. Even minor exercises can tie up civilian traffic. Property which, in most countries, would be developed for civilian use must, in Germany, be reserved for the military.

The German people generally have not complained about this disruption and intrusion. After all, NATO could not be held responsible for the accidents of geography. Moreover, the disruption experienced in their lives was the price they had to pay for protection against a strong, and threatening enemy in the East. However, I do not believe any of us will be surprised when I say that the people of West Germany are going to be less willing to have their lives disrupted by military exercises and by the military presence when the threat from the East is clearly retreating.

However, Mr. President, this potential problem can be neatly avoided if we properly manage the reduction of United States forces in Germany. To be specific, Mr. President, the sense of the Senate amendment which I have sent to the desk instructs the Pentagon that, as it studies how to reduce our forces in Germany, it should concentrate upon closing facilities which are located on high value municipal property, particularly where the continued maintenance of such a facility could prove a serious hindrance to commercial and residential development.

At one time, our military might have been obliged to locate its bases in Germany in certain places in order to fulfill their military role. However, as the threat of a lightning strike by Warsaw Pact forces retreats over the horizon, the actual location of United States and other allied forces in Germany is not a matter of any great moment. So long as they are there, in minimal numbers, they will be carrying out their task, deterring attack and underwriting the transatlantic security commitment.

Consequently, I see now reason why this country cannot plan and accomplish the reduction of its forces in Germany in cooperation with the Government and people of West Germany and why a key element in this plan should not be the United States vacating of high value municipal property in order that the continued American presence should have the least possible impact upon the civilian economy. I believe that our German friends deserve this consideration on our part and I urge that the Senate adopt this amendment.

Mr. NUNN. Mr. President, we have been over this amendment with the Senator from Delaware. I think it is a good amendment. I think it makes sense. I think it makes sense from the United States point of view. I think it is a good policy from the point of view of Germany. I urge its adoption.

Mr. GORTON. I agree entirely with the remarks of the distinguished Senator from Georgia. It is a good amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware [Mr. ROTH].

The amendment (No. 2497) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I ask unanimous consent that Senator DANFORTH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2498

(Purpose: To require the Secretary of Defense to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for NATO training and exercise purposes, those military installations in the United States scheduled for closure by the Department of Defense)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MCCONNELL, proposes an amendment numbered 2498.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY AND REPORT BY THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization (NATO) to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense. In carrying out such a study, the Secretary shall consider—

(1) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(2) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall submit to Congress a report containing the results of the study required by subsection (a) together with such comments and recommendations the Secretary considers appropriate.

(c) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (c) not later than January 1, 1991.

Mr. ROTH. Mr. President, the amendment which I have sent to the desk on behalf of myself and Senator MCCONNELL is designed to confront a problem which we and our allies in the North Atlantic Treaty Organization repeatedly face when we try to conduct joint training maneuvers under realistic circumstances.

During recent years, it has become increasingly difficult for NATO forces to conduct a large-scale maneuvers on European soil. The relatively small scale of the theater, combined with its high population density, insure that any military operation has a massive disruptive impact upon everyday civilian life, often out of all proportion to its military value. Consequently, such operations are increasingly unpopular in Europe in general and in West Germany in particular.

Of course, Mr. President, the problem which pertains in Europe would not bother us here in the United States. I say this because we have the luxury which comes with wide open spaces and an excess of military bases. Our military can practice its maneuvers and low-level flying on large military reservations.

We have no shortage of such facilities. To the contrary, we are now trying to close down some of these military facilities, because we have more than we need. Our excessive number of domestic military bases cause me to ask, Mr. President, whether we here in the United States may hold the key to NATO's Military Training Program.

Simply put, NATO faces a critical lack of training facilities in Europe while the United States suffers from an excessive number of such facilities on its own soil. Would it not be excellent sense, at least to explore the possibilities of leasing some of our surplus military bases to NATO in order that we and our allies can use them to conduct the type of large joint exercises which we need to bring our forces to their maximum effectiveness?

NATO already has a large infrastructure fund. This fund could finance the annual operations and maintenance of these facilities, while

the United States would retain title to the property. Different national members of NATO could send elements of their armed forces to these bases for different periods of time in order to participate in cooperative training exercises, free of the many constraints associated with mounting such operations in Europe.

There are two other advantages inherent in such a proposal. First, as we reduce the size of U.S. Armed Forces in general, and of our European deployments in particular, we must improve the effectiveness of the remainder of our forces. For years we have known that improved effectiveness in Europe could be gained only through enhanced cooperation. I truly believe that the establishment of NATO training bases, as opposed to national training bases, will make progress toward greater cooperation.

Second, we and our allies have always insisted that the presence of some U.S. forces in Europe constitute a vital symbol of the continued vigor of the trans-Atlantic relationship which tie the United States and Canada to Western Europe. I see no reason why the reciprocal presence of some European troops in the United States should not similarly attest to the health and resilience of this most special relationship.

Finally, Mr. President, I point out this amendment requires only that the Department of Defense study this proposal and consult with NATO authorities on it. I am aware the proposal is both novel and potentially complex. Consequently I believe that further action at this time might be precipitous, although I will probably revisit the matter if I do not see DOD pursuing this study with sufficient vigor.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Georgia.

Mr. NUNN. Mr. President, again I think this is an excellent amendment. It makes sense from the point of view of the NATO allies, it makes sense from the point of view of U.S. bases that might otherwise be underutilized, or in some cases closed. I understand it is a study. We will be able to determine after the study whether we go forward and what really makes sense. But I congratulate the Senator and I urge the amendment be adopted.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this amendment represents a wise attempt to deal with a dramatically changing circumstance in Europe among our NATO allies. We think it is a good amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 2498) was agreed to.

Mr. ROTH. Mr. President, I ask unanimous consent to add Mr. SANFORD's name as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to have my name added as a cosponsor.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I also ask unanimous consent to add Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise to bring to the attention of my colleagues a very important aspect of the Department of Defense bill before us. This is not an amendment. I will make a short statement. I think the floor manager of the bill, Senator NUNN, who has been active in pushing this concept in defense procurement will probably wish to respond.

The concept I am talking about is the reinforcement of the fly before buy, or try before purchase, or whatever we want to call it, principle in the acquisition of new weapons systems.

We say "fly before buy," but that does not mean it is applicable to just airplanes. It means it applies to any of the major weapon system purchases that we make.

In view of the reduction in the Soviet Warsaw Pact threat, the committee concluded that the Department of Defense no longer really needs to rush to buy a weapons system, as we have been doing for some years, in order to meet a particular fielding deadline. In other words, the Pentagon can now afford to reduce concurrency, which means testing and production are going on together, in the acquisition process, and get it right the first time.

We know new weapons systems have a lot of ECP's, engineering change proposals. We are always going out with different kinds of requests and improvements on these systems as we discover problems. That is expensive when you then have to backdate those or backfit those on existing weapons systems.

So, as much as we can, consistent with the times in which we live, we want to reduce that concurrency, get it right the first time even though it may take a little more time, before becoming deeply committed to a weapons system that might turn out to be somewhat troubled.

Under Chairman NUNN's leadership, the committee applied this fly-before-buy approach to several major weapons systems including the B-2 bomber, the V-22 *Osprey* tiltrotor aircraft, the SSN-21 *Seawolf* attack submarine and the rail garrison MX missile.

The committee made very specific recommendations on each of these programs to more closely align them with its interpretation—and I stress—with its interpretation of the fly-before-buy principle.

By reinforcing the fly-before-buy principle the question arises as to how best to satisfy that principle. The operative question is: How do we quantitatively measure progress under the fly-before-buy concept? That is, how much testing must be accomplished before we proceed to the next phase in the acquisition cycle, which ultimately could lead to full production and fielding of the weapons system?

That sounds like a very simple question. But it is not quite that simple because, if we are talking about a new fighter airplane, for example, do we just prove out the aerodynamics—that it will go a certain speed that we require, a certain expansion of the operational envelope—before we go ahead with production? Or, do we also require that weapons be fired and that bombs be dropped; that guns be activated and that missiles be on that airplane and mounted during all these different flights, filling out the envelope; and then that there actually be weapons tests and accuracy tests before we decide to go ahead?

All of these things have to be defined. Obviously they vary from one type of weapons system to another. I mentioned just one. We can say the same thing about a new class of destroyers, or a new tank, or a new field weapon of one kind or another.

So, we are not certain as to exactly how to apply the fly-before-buy principle in a number of these areas.

But, what we want to do now, in my opinion the Congress and DOD will need to agree on an answer to this question, if we were to really fully understand and effectively apply the fly-before-buy principle across the board more than we have so far.

In that context, I have recently written to Under Secretary of Defense for Acquisition, Mr. John Betti, and asked him to give us his assessment of how best to implement this principle; and also what changes, if any, he feels are needed to the current DOD acquisition process.

I ask unanimous consent that a copy of my letter be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. I realize existing DOD acquisition procedures are designed to minimize concurrency consistent with good business practices. However,

there are numerous examples of excessive concurrency in the development of major systems.

For example, the B-1, C-17, A-12, T-45, AMRAAM, ASPJ, and the B-2 that have led to greatly increased costs, and also have delayed fielding of the system.

Given these facts, I believe it incumbent upon both the Congress and the DOD to renew efforts to improve the way we evaluate the operational effectiveness and suitability of new weapon systems.

So, Mr. President, I congratulate Senator NUNN for taking the lead this year in reinforcing the fly-before-buy principle for the acquisition of new weapon systems. I strongly support the fly-before-buy principle and fought successfully on the floor last year to bring the B-2 development program under the fly-before-buy concept.

Mr. President, I would only add with regard to the B-2 that the program managers have developed a systems maturity matrix concept of how you go about evaluating some of these acquisition programs that may prove to be a pattern we can follow for other weapons systems. So we would be interested in hearing comments from DOD on how that concept is working out.

I firmly believe that DOD should ensure that adequate development and operational testing is completed before proceeding to production of any major weapons system. I think we are in a timeframe now internationally and international relations and threat analysis where we have time to do more of that than we had before. If this is done, I believe it can save the taxpayers billions of dollars, and I look forward to working with DOD, Senator NUNN and others to establish procedures that will more fully implement the fly-before-buy principle.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 31, 1990.

Hon. JOHN A. BETTI,
Under Secretary of Defense for Acquisition, Office of the Secretary of Defense, The Pentagon, Room 3E933, Washington, DC.

DEAR MR. BETTI: The Senate Armed Services Committee has recently completed action on the National Defense Authorization Act for Fiscal Year 1991. One of the major themes that guided the Committee's budget review was the Packard Commission's recomendation that the Department of Defense (DOD) return to the concept of fly-before-buy.

Citing the reduction in the Soviet/Warsaw Pact threat, the Committee concluded that DOD no longer needs to rush to buy a weapon system in order to meet a fielding deadline. The Pentagon can now afford to reduce concurrency in the acquisition process and get it right the first time before becoming deeply committed to a weapon system that might turn out to be troubled.

Under Chairman Nunn's leadership, the Committee applied this fly-before-buy approach to several major weapon systems, including the B-2 bomber, the V-22 Osprey Tiltrotor aircraft, the SSN-21 Seawolf attack submarine, and the Rail Garrison MX missile. The Committee made specific recommendations on each of these programs to more closely align them with its interpretation of the fly-before-buy principle. I note that this action put the Committee somewhat at odds with your April 1990 report to Congress on concurrency in major defense acquisition programs. The operative question is "how do we quantitatively measure progress under the fly-before-buy principle—i.e., how much testing must be accomplished before we proceed to the next phase in the acquisition cycle which ultimately could lead to full production and fielding of the weapon system?"

In my opinion, the Congress and DOD will need to agree on an answer to this question if we are to fully understand and effectively apply the fly-before-buy principle. In that context, it would be very helpful to have your assessment of how best to implement this principle in the acquisition of major weapon systems, and also what changes, if any, you feel are needed to the current DOD acquisition process. The assessment reasonably should include:

Development Test and Evaluation (DT&E), where emphasis is placed on verifying attainment of technical performance, specifications, objectives, and supportability.

Operational Test and Evaluation (OT&E), where emphasis is placed on field testing under realistic operational and combat conditions.

Decision Criteria required to support the commitment of funds for long-lead production items, or for low-rate or full-rate production.

I realize that existing DOD acquisition procedures are designed to minimize concurrency, consistent with good business practices. However, there are numerous examples of excessive concurrency in the development of major systems (e.g., B-1; C-17; A-12; T-45; AMRAAM; and ASPJ) that have led to greatly increased costs and also have delayed fielding of the system. Given these facts, I believe it incumbent upon both the Congress and the DOD to renew efforts to improve the way we evaluate the operational effectiveness and suitability of new weapon systems.

I look forward to your response on this important issue.

Best regards.

Sincerely,

JOHN GLENN,
U.S. Senator.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President I would like to respond briefly to the Senator from Ohio. I thank him for his tremendous work in this area. Of all the Members of the Senate, I do not know of any Member who knows more about the importance of thorough testing of weapons systems before they are put in production than the Senator from Ohio. He has been superb on our committee in this respect and in other respects.

I congratulate him on emphasizing this principle. This is the heart of our procurement principle that we are trying to apply. It is one of those principles that has been talked about for years but never applied. This is the first time that we have really done it.

I also would like to congratulate the Senator's staff for their superb work. Milt Beach has done a tremendous amount of work in this area, and we thank him for his efforts.

I agree with the Senator's comments this evening. I am glad he emphasized the importance of it.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2499

(Purpose: To amend title 5, United States Code, to authorize payment of increased pay for Federal employees serving in critical positions)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The underlying pending amendments will again be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. BINGAMAN, Mr. NUNN, Mr. WALLOP, and Mr. WARNER, proposes an amendment numbered 2499.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 832 add the following:

(k) CRITICAL-POSITION PAY AUTHORITY.—(1) Subchapter I of chapter 53 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5309. Critical-position pay authority

"(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

"(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

"(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

"(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a

redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

"(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

"(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

"(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

"(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

"(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

"(A) the criteria that should be used to determine which positions should be critical positions; and

"(B) the qualifications that should be expected of individuals assigned to critical positions.

"(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

"(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5308 the following new item:

"5309. Critical-position pay authority.".

Mr. GLENN. Mr. President, my amendment would authorize higher pay rates for certain Federal employees serving in critical positions. Because pay increases for Federal employees have been restrained for over a decade now, recent studies have shown that Federal pay rates are about 25 percent below the private sector for comparable jobs. These studies have also found that too many of our most talented public servants are ready to leave and too few of our brightest young people are willing to join. Nowhere is the need for a strong public service more apparent than in the vital programs authorized by this act. Management of the defense acquisition process, for example, is one of the most difficult challenges facing Government. Scientists, engineers, and management are constantly challenged to meet increasingly demanding goals in a dynamic threat environment. Department of Energy faces problems of equal if not greater magnitude in addressing the crisis in the management of the nuclear weapons complex.

But the demands for highly talented people are not limited to these programs. Agencies across the government are facing similar challenges in carrying out their programs and are finding it more and more difficult to attract and retain the top quality people needed to run them. For example, officials in the Department of Health and Human Services have reported that they have not been able to recruit the people needed to carry out medical research programs because of inadequate Federal pay rates. Therefore, I am proposing that up to 800 positions Governmentwide could be designated as critical and that the individuals occupying these positions could be compensated at a rate not to exceed level I of the executive schedule.

Mr. President, there is an urgent need to begin to address the crisis in public service and to promptly enact remedial legislation. This amendment is designed to do just that.

I believe it has been accepted on both sides of the aisle. I urge its adoption.

Mr. NUNN. Mr. President, this is a very good amendment. This is one Senator BINGAMAN worked on last year. We are working with Senator GLENN. I am delighted it is now possible to move forward. This is probably one of the most important amendments in terms of personnel that we will be considering on this bill. Not only do we urge its adoption, but I have cosponsored the amendment. I think it is an excellent step forward in trying to give some flexibility in this high-level personnel area that is absolutely essential if we are going to properly manage the Government.

Mr. GORTON. Mr. President, with the acceptance of many amendments this evening without much debate, this is, as the chairman has said, a particularly significant and important one. The difficulty in getting people to take positions like those covered in this amendment is tense and is, if anything, growing. An attempt to do this on a narrow base last year passed the Senate and failed in the conference, the ability to get two committees together on this amendment at this point with real prospect of its passage is a very good sign. I strongly urge the adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN. Mr. President, I would just like to congratulate the Senator from Ohio on his initiative. I do think it is a major step in the right direction. I hope the amendment he is putting on the bill can go all the way through and become law.

The problem that we have encountered because of some of these caps on pay, the inability to have any flexibility, has been very severe on not only the Department of Defense but Governmentwide. I think it is excellent that we are taking a Governmentwide approach to it. I compliment him on this action.

The PRESIDING OFFICER (Mr. REID). Is there further debate on the amendment? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2499) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2500

(Purpose: To authorize demonstration programs to assess the use of alternative personnel management systems at certain Federal Government laboratories)

Mr. GLENN. Mr. President, I rise today to offer an amendment on behalf of myself, Senators BINGAMAN, WALLOP, NUNN, and WARNER, to amend the defense authorization bill for the purpose of establishing a Governmentwide laboratory demonstration program. I believe this amendment has been accepted by both floor managers.

The PRESIDING OFFICER. Without objection, the underlying pending amendments will be set-aside. The Senator may proceed.

Mr. GLENN. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. BINGAMAN, Mr. NUNN, Mr. WARNER, and Mr. WALLOP, proposes an amendment numbered 2500.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 166, below line 21, insert the following new section:

SEC. 834. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS FOR CERTAIN FEDERAL GOVERNMENT LABORATORIES.

(a) PURPOSE.—The purpose of this section is to provide a basis for evaluating one or more alternative personnel management systems for scientific positions, engineering positions, technical support positions (including positions requiring proficiency in advanced mathematics) and managerial positions in Federal Government laboratories in order to enhance the recruitment, retention, and motivation of well-qualified civilian personnel for such positions and to provide appropriate compensation for such personnel.

(b) DEMONSTRATION PROGRAM.—(1) Not later than one year after the date of the enactment of this Act—

(A) the Director of the Office of Personnel and Management—

(i) shall designate one or more agencies to conduct one or more demonstration programs for the purpose of this section; and

(ii) with the head of each agency so designated, shall jointly develop each such demonstration program for such agency; and

(B) the head of each agency so designated shall implement the demonstration program or programs jointly developed with the Director.

(2)(A) The head of an agency designated to conduct a demonstration program shall designate—

(i) the agency laboratory or laboratories that are to be involved in the demonstration program; and

(ii) the scientific positions, engineering positions, technical support, or managerial positions at each such laboratory that are to be covered by the alternative personnel management system implemented pursuant to the demonstration program.

(B) The head of an agency may designate for coverage by an alternative personnel management system pursuant to subparagraph (A) only those positions the rates of basic pay for which would be established, except for this section, under—

(i) section 3104 of title 5, United States Code, relating to specially qualified personnel;

(ii) subchapter III of chapter 53 of such title, relating to the General Schedule; or

(iii) chapter 54 of such title, relating to the performance management and recognition system.

(3) Each alternative personnel management system implemented pursuant to the demonstration program shall cover a sufficient number of employees to provide an adequate basis on which to evaluate the feasibility and desirability of implementing such a system on a broader scale in Federal Government laboratories.

(4) The demonstration programs conducted pursuant to this section shall not be considered as demonstration programs for the purposes of section 4703 of title 5, United States Code.

(c) CLASSIFICATION.—Each alternative personnel management system implemented pursuant to a demonstration program under this section shall provide for the classification of employee positions in occupational groups. An occupational group shall include positions that are similar in the following respects:

(1) The responsibilities and complexities of the positions.

(2) Qualifications necessary for performance of such responsibilities.

(d) PAY RANGES.—(1) A range of rates of basic pay shall be established for the positions in each occupational group.

(2) The minimum rate of basic pay in a pay range shall be equal to the lowest minimum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(3)(A) Subject to subparagraph (B), the maximum rate of basic pay in a pay range shall be equal to the highest maximum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(B) The maximum rate of basic pay of a pay range applicable under an alternative personnel management system to positions in an agency laboratory may exceed the maximum rate permitted under subparagraph (A) if the head of the agency determines that, because of adverse working conditions at the laboratory or the undesirability of the geographical location of the laboratory, the increased maximum rate of basic pay is necessary to ensure the recruitment and retention of a sufficient staff of qualified employees.

(C) The maximum rate of basic pay established under subparagraph (B) for a pay range applicable to positions in an agency laboratory may not exceed the lesser of—

(i) the rate necessary to ensure the recruitment and retention of a sufficient staff of qualified employees, as determined by the head of such agency;

(ii) the amount equal to 160 per cent of the maximum rate of basic pay that, except for such subparagraph, would be permitted under subparagraph (A); or

(iii) the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) The minimum and maximum rates of basic pay in a pay range shall be adjusted at the same times and to the same extent as the rates of basic pay under the statutory pay systems pursuant to section 5305 of title 5, United States Code.

(e) SPECIFIC RATES OF BASIC PAY.—(1) For each alternative personnel management system implemented at an agency laboratory under a demonstration program conducted at such laboratory, the head of such agency shall prescribe the criteria for establishing, within the applicable pay range, the initial rate of basic pay of an employee appointed to a position covered by the system and for increasing the employee's rate of basic pay within such pay range.

(2) Subject to paragraph (3), the head of an agency laboratory shall establish the initial rate of basic pay for an employee within a pay range, and from time to time increase the rate of basic pay of the employee referred to in paragraph (1) within the pay range, on the basis of the criteria prescribed under paragraph (1).

(3) In the case of an employee employed in a position at an agency laboratory immediately before that position becomes covered by an alternative personnel management system under this section, the rate of basic pay established for such employee under the alternative personnel management system may not be less than the rate of basic pay payable to such employee immediately before the position becomes covered by such system.

(f) OTHER PAY.—(1) Each alternative personnel management system shall provide for payment of managerial differential pay for managerial personnel and supervisory differential pay for supervisory personnel. The payment of differential pay to an employee in a managerial or supervisory position shall be in addition to the payment of the basic pay provided for such employee.

(2) Each alternative personnel management system applicable to an agency laboratory shall provide for payment of cash awards for meritorious performance subject to budgetary considerations of such laboratory.

(3) Each alternative personnel management system shall provide for payment of recruitment bonuses and retention bonuses when necessary to meet employee recruitment and retention needs.

(4) Differential pay, cash awards, recruitment bonuses, and retention bonuses may not be considered as basic pay for any purpose.

(g) TRAVEL ALLOWANCES.—Each alternative personnel management system shall provide for payment of reasonable travel expenses of—

(1) a new appointee for a position covered by such system to the same extent as is provided for a new appointee to the Senior Executive Service under section 5723(a)(1)(B) of title 5, United States Code; and

(2) a candidate for appointment to a position covered by such system, and the candidate's spouse (if any), in connection with an employment interview.

(h) APPLICATION AND APPOINTMENT PROCEDURES.—Each alternative personnel management system implemented at an agency laboratory shall include procedures—

(1) for a candidate for appointment to a position covered by such system to submit an application directly to the head of the laboratory; and

(2) consistent with sections 2301 and 3309 of title 5, United States Code, for appointment and assignment of a person directly to such a position at such laboratory.

(i) PERFORMANCE EVALUATIONS.—Each alternative personnel management system shall provide procedures for evaluating the job performance of employees covered by the system.

(j) LIMITATIONS ON PROGRAM COSTS.—(1) The total amount of the personnel costs incurred by the Federal Government for employees in positions covered by an alternative personnel management system under a demonstration program conducted under this section may not exceed the total amount of the personnel costs that, except for the implementation of such alternative personnel management system, would have been incurred by the Federal Government for such employees.

(2) The total amount paid an employee as basic pay, differential pay, recruitment bonuses, retention bonuses, and performance awards under an alternative personnel management system under this section in any fiscal year may not exceed the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect on the last day of such fiscal year.

(k) PROGRAM PLAN; PROJECT REVIEW.—(1) Before implementing a demonstration under this section, the head of the agency in which the program is conducted shall develop a plan for such program.

(2) The plan for a program shall—

(A) provide criteria for the evaluation of such program; and

(B) specify the total number of employee positions to be covered by the program when the program is fully implemented.

(3) The head of the agency shall submit the program plan to the Comptroller General of the United States at least 60 days before the program is implemented.

(4) Not later than one year after the implementation of a demonstration program, and on an annual basis thereafter during the period in which demonstration programs are conducted under this section, the Comptroller General shall review each demonstration program to determine whether the program meets the criteria specified in the program plan.

(5) The Comptroller General shall submit an annual report containing the results of the review to—

(A) the Committees on Armed Services and Governmental Affairs of the Senate;

(B) the Committees on Armed Services and Post Office and Civil Service of the House of Representatives; and

(C) the Secretary or agency head.

(l) DEFINITIONS.—In this section:

(1) The term "agency" has the meaning given the term "Executive agency" in section 105 of title 5, United States Code.

(2) The term "agency laboratory" means a Federal Government laboratory of an agency.

(3) The term "Federal Government laboratory" means a government-owned, government-operated laboratory within an agency.

(4) The term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

(m) TERMINATION DATE.—Each demonstration program conducted pursuant to this section shall terminate not later than 10 years after the date on which such program begins.

Mr. GLENN. Mr. President, the Federal Government is directly responsible for funding almost one-half of all the research and development projects in the United States. Much of this R&D is performed either in the many in-house laboratories operated by the different agencies and departments, or is managed by these laboratories.

Mr. President, while many in this Nation believe that the Government should do less in research and development, and the private sector should do more, I believe that it is obvious to anyone in this Chamber that the Federal Government is going to continue to play a very key, important role in directing this Nation's science and technology for the foreseeable future. And this role extends beyond the research and development performed as a part of our national defense.

The national security strategy of this country has, for the past 40 years, relied on maintaining our technological superiority in the weapons systems we put in the field. The contribution of the DOD defense laboratories in developing these weapons, in supporting the technology base that make them possible, has been critical. I expect that these laboratories will continue to be primary contributors in making improvements to our national security.

But there are many other areas where the Federal laboratories have made, and are continuing to make, important contributions. The National Aeronautics and Space Administration, have world class laboratories in place like Langley, VA, and at the Lewis facility in my home State of Ohio. The Environmental Protection Agency also operates a number of laboratories around the country trying to find better, more affordable ways to restore our environment, and dispose of our waste products. The Department of Commerce has established a laboratory demonstration at the National Institute of Science and Technology and that demonstration program is the forerunner for what we are proposing today.

Mr. President, we all know that the key to success in operating these laboratories is in having good people supported by good facilities. During the past decade, finding and retaining well qualified scientists, technicians, mathematicians, and engineers for the Federal laboratories has become a major problem. Part of that problem has to do with the discrepancy in pay between the Federal Government and the private sector. The Governmental Affairs Committee, which I chair, is working on a major resolution to help resolve this pay differential problem.

But another major part of the problem has to do with the personnel management policies and practices that have accumulated over the past several decades. To put it simply, the system has become too cumbersome and it does not place accountability for personnel management where it belongs, with the laboratory director.

Mr. President, the amendment I offer on behalf of myself and Senators BINGAMAN, WALLOP, NUNN, and WARNER is intended to correct these problems. It permits the departments, working with the Office of Personnel Management, to use pay bands which gives supervisors of scientists and engineers the flexibility to manage their people and also makes them directly accountable for their performance. The amendment would also permit the laboratory directors to make the decisions and to make offers of employment directly with prospective new science and engineering employees. It directs that the demonstration programs be conducted on a cost-neutral basis and provides for a 10-year evaluation period to accumulate data and evaluate the pluses and minuses of the features that I have described.

Mr. President, the changes that are authorized in the proposed amendment are, in my opinion, absolutely necessary if the Federal Government laboratory system is to maintain its vitality in the coming years. Private industry in the United States and around the world has constantly been changing the structure and organization of their research and development laboratories to get the maximum benefit from their investment. They compensate competitively, they hold their managers accountable, and they give them the flexibility to perform. The managers of the research and development laboratories in the Federal Government should be given the same level of support and should be held to the same strict levels of accountability.

Mr. President, I believe this a good amendment, a necessary amendment, and one that Members of the Senate should support. It has the bipartisan support of the members of the Armed Services Committee and I urge its adoption.

DEPARTMENT OF DEFENSE IN-HOUSE LABORATORIES AMENDMENT

Mr. BINGAMAN. Mr. President, I rise today to join Senator GLENN, Senator NUNN, Senator WARNER and Senator WALLOP in supporting this amendment to initiate a demonstration personnel management programs at Federal laboratories. This program will provide the basis on evaluating alternative personnel management programs and how they can make the laboratories more competitive and more effective in the future. I am especially pleased to have this opportunity to work with the distinguished chairman of the Governmental Affairs Committee on a problem that can have serious consequences not only for national defense, but for many other areas of national concern if not promptly addressed.

The Defense Industry and Technology Subcommittee of the Senate Armed Services Committee has been seriously concerned with the challenges facing the DOD laboratories for a number of years. Maintaining these laboratories at a high level of competence is essential if the United States is to continue to discover and exploit superior technology in support of the national defense. They form a central part of the Defense Department's research and development and the weapons system acquisition process. In fiscal year 1987, which is the latest year for which I have information, DOD laboratories performed about one-third of the department's basic research and over 40 percent of its exploratory development activities. I am confident that these percentages are approximately correct now. Much of the remaining DOD technology base activity is managed by these laboratories. Therefore, the competence of the laboratories, and more specifically the quality of their leadership, is of highest importance.

Mr. President, the problems at the defense laboratories have been highlighted in a number of studies including a 1987 Defense Science Board Summer Study. This spring the Defense Industry and Technology Subcommittee, which I Chair, received testimony from the chairman of this Defense Science Board Study and also from the Defense Department's Director of Research and Engineering and from the technical directors of three major DOD laboratories.

Each of these individuals testified to the difficult task of maintaining high-quality research and development laboratories within the Department of Defense. The laboratory directors spoke to the successes they have had, and those they intend to yet achieve, in supporting the technology base. They testified on the innovative approaches they are using to overcome their competitive disadvantage in hiring and retaining top quality people. Mr. President, I believe it is a complement to the people that are running our Defense Department laboratories that they are able to do as well as they are, considering the problems they must overcome. Each of these laboratory directors also testified on the urgent changes that are needed to remove the barriers that are

keeping their laboratories from performing their assigned missions as well as they might. As Prof. John Deutch testified, "the civil service DOD labs are increasingly facing greater difficulties in meeting the requirements for a successful technical organization."

Many of these management restrictions are in the area of personnel administration. Central to this problem is an accumulation of statutory and regulatory restrictions which were originally introduced to remedy specific difficulties, but have over time built up to the point where they now impede efficient management at these labs.

In the fiscal year 1990 Defense Authorization Act, the Armed Services Committee endorsed the recommendation made by that 1987 Defense Science Board Summer Study, and directed the Secretary of Defense to implement their recommendations. I would note that DOD had previously testified to my subcommittee that implementing these recommendations was one of the Department's highest priorities. Nevertheless, nothing had been done.

In the 1990 Defense Authorization Act, the committee specifically directed the Defense Department to identify any legislative changes needed to undertake these demonstration projects. As a result of this direction, DOD has prepared a Laboratory Demonstration Program Plan, and has selected the laboratories that will participate in the program. Unfortunately, it appears that little progress is being made by the Department in modifying Government regulations or identifying changes to statute.

The amendment offered by Senator GLENN, which I am pleased to cosponsor, provides the legislative direction, and grants the authority needed by the Department of Defense and other Federal Government Departments and agencies, to proceed with a meaningful Lab Demonstration Program. I believe that it will give laboratory directors the tools they need to properly manage their scientific and engineering work force. And it will establish the basis for holding those lab directors responsible for properly managing that work force. Since it is a demonstration program, it certainly will provide the basis for evaluating these changes and making a decision if they should be implemented in all Federal laboratories. I believe that this is good legislation. It has bipartisan support in the Senate Armed Services Committee and it is something that we should move forward on. I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, we have been over this amendment. We have discussed it with the Senator from Ohio. It is an amendment to establish and evaluate alternate personnel systems for scientists, engineers, and technical support personnel in Federal labs. This is one we have worked on for a number of months and last year. Senator BINGAMAN has also worked on it. I urge its adoption.

Mr. GORTON. Mr. President, this is a fine and appropriate amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate on the Glenn amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2500) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2501

(Purpose: To amend section 2307 of title 10, United States Code, to provide for the suspension of payments under a contract if a determination is made that the request for such payments is fraudulent)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH,] proposes an amendment numbered 2501.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII of the bill, insert the following new section:

SEC. . SUSPENSION OF PAYMENTS

(a) IN GENERAL.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the head of an agency determines that there is substantial evidence that the request of a contractor for advance, partial, progress, or other payment under a contract awarded by that agency head is fraudulent, the agency head may suspend further payments under the contract unless the suspension would unduly interfere with or jeopardize a law enforcement investigation.

(b) INFORMATION FROM CONTRACTOR.—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines sufficient to permit the Secretary to carry out the preceding sentence.".

(c) EFFECTIVE DATE.—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), respectively, shall apply with respect to contracts in effect on the date of the enactment of this Act and contracts entered into on and after that date.

Mr. ROTH. Mr. President, the purpose of this amendment is to make it easier for contracting officers to withhold progress payments from defense contractors when there is substantial evidence of fraud being committed by that contractor.

This amendment would require a contracting officer to suspend all progress payments to a contractor upon a finding that a progress payment claim submitted by the contractor is fraudulent. The amendment permits a contracting officer sufficient flexibility to respond to compelling reasons for not suspending payments but requires that the contracting officer document the reasons why the suspension is not taken and to take the actions necessary to protect the Government's interest.

A progress payment claim might be fraudulent if the goods delivered to the United States are nonconforming or if the request for payment is based on false or misleading invoices from subcontractors. In a recent interview, the DOD deputy inspector general said:

> We know we're being ripped off by generally smaller companies that tend to restructure themselves after they sell us defective parts . . . we know they are collecting progress payments but they are not delivering.

He estimated that this problem was costing the Government an estimated $50 to $100 million per year. In a recent hearing before the Senate Armed Services Committee, DOD's inspector general told of an Army case where the procuring office found itself dealing with a suspended contractor that had been indicted for defrauding the Government. In still another case the inspector general, in 1987, raised questions about whether a firms progress payments were fraudulent. Despite the IG's concern, which was shared by the Air Force inspector general, the Air Force judge advocate general and the Defense Contract Audit Agency, the Air Force continue to approve over $1 million in additonal progress payments.

The DOD inspector general said that she proposed in January that DOD's regulations be changed to provide more guidance. That recommendation has not been acted upon. DOD's Deputy Assistant Secretary for Procurement does not believe that it is DOD business to be meting out punishment and believes that DOD has sufficient authority to stop progress payments when the situation dictates.

The experiences related by the DOD inspector general and her staff show a reluctance to halt progress payments even in gross situations. I believe that the proposed amendment is necessary and I ask that my colleagues support this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. President, again I rise to compliment the Senator from Delaware on the amendment that is being offered. I do think it is a very important amendment. It is one

on which we did have testimony in front of the subcommittee that I chair of the Armed Services Committee as to the need to have this authority to suspend progress payments. I think this is a significant step. I congratulate him on it.

I urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, I believe this is a good amendment. We have gone over it with the Senator, and I urge its adoption.

Mr. GORTON. Mr. President, this side of the aisle approves of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2501) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2502

(Purpose: To require the Secretary of Defense to establish a branch office of the Defense Advanced Research Projects Agency in Japan)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2502.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 181, between lines 8 and 9, insert the following new section:

SEC. 855. ESTABLISHMENT OF DARPA OFFICE IN JAPAN.

(a) IN GENERAL.—The Secretary of Defense shall establish a branch office of the Defense Advanced Research Projects Agency (DARPA) of the Department of Defense in Japan.

(b) FUNCTION OF BRANCH OFFICE.—It shall be the function of the branch office established pursuant to subsection (a)—

(1) to investigate and evaluate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Defense Advanced Research Projects Agency (DARPA); and

(2) to make such recommendations to the Director of the Defense Advanced Research Projects Agency as the branch office consider appropriate regarding the desirability of DARPA entering into a cooperative arrangement with Japan with respect to the development of particular technologies.

Mr. BINGAMAN. Mr. President, the amendment that I am offering today is simple and straightforward. It would direct the Department of Defense to establish in Japan an office of the Defense Advanced Research Projects Agency, or DARPA as the Agency is commonly known.

In December 1989, I visited Japan for the third time since coming to the Senate in 1983. The focus of this most recent trip was on the development of Japanese technology. I returned to the United States convinced that the Defense Department needs to treat Japan as the technological superpower that it has become.

The Japanese fully intend to develop and maintain world-class research and manufacturing capabilities in critical emerging industries, such as electronics, telecommunications, advanced materials, biotechnology, and aerospace. I believe that the United States could benefit by greatly increased involvement with Japanese industry on these emerging technologies. To a large degree, that interaction may occur on a company-to-company basis. However, there also appears to me to be a substantial role for the U.S. government, and for the Defense Department in particular.

In the past, the focus of the Defense Department's interest in cooperative research and development has been on Western Europe. Japan, on the other hand, has largely been ignored, despite its lead over Western Europe in most critical, dual-use technologies. To correct this imbalance, I suggested several administrative changes to the Defense Department leadership after I returned from my most recent trip to Japan.

Establishing a DARPA office in Japan—the subject of the amendment that I am offering today—was one of the recommendations that I made to the Defense Department. DARPA's mission of developing key generic technologies that will have crosscutting applications in the military services matches well with the opportunities that exist in Japan. Those opportunities for cooperation lie not in full-scale weapon systems, but in dual-use technologies at the component and subsystem level. Concerns about reciprocity in technology flows between the two countries, so evident in the FS-X debate, could also be minimized at that level.

As stated in my amendment, the function of a DARPA office in Japan would be to investigate, evaluate, and recommend opportunities for cooperation between the United States and Japan. I might point out that DARPA has maintained an office with the same function in Europe for a few years. That office has successfully fostered United States-European cooperation. It only makes sense to me that DARPA should undertake a similar effort in Japan, which is second only to the United States as a technological superpower.

Mr. President, I had hoped that it would not be necessary for the Congress to legislate this matter. Until recently, I had believed that the Defense Department, if it had not already made the decision to open a DARPA office in Japan, was at least moving quickly in that direction.

On April 24 of this year, Deputy Under Secretary of Defense Donald Yockey responded to my administrative recommendations for the Defense Department. In his letter, Mr. Yockey wrote the following:

DARPA is in the process of investigating the establishment of a Far East office in Tokyo. This is a [Defense Management Review] topic, and we expect successful resolution within DoD. There are still a number of administrative actions to be completed and approval by the State Department and the Japanese Government will be required, but so far indications have been positive.

Then, on June 12, Mr. Yockey testified before the Armed Services Subcommittee on Defense Industry and Technology, which I chair. At that time, he explained that establishing a DARPA office in Japan, "is in the works. We have a lot of logistics to work out on that, including how to pay for it because of the budgetary pressures. We concur with that as an issue that we would like to see brought to completion."

Unfortunately, despite these encouraging reports, this issue now appears to be at a standstill within the Defense Department. Therefore, I am offering this amendment in an effort to overcome the remaining bureaucratic obstacles and to bring this issue to closure. I encourage my colleagues to join me in this effort.

This is an amendment which I believe has been agreed to on both sides of the aisle. It is part of the effort which I believe we are taking this year in the defense bill to encourage additional efforts to cooperate between the Japanese and ourselves in technology development.

It is clear from reports we have received in the last year that the Japanese have become and really are preeminent in the world in several areas of very important technology development. It is important that we participate in that development. It is important that we cooperate wherever that cooperation makes sense to us and to the Japanese.

Establishment of this office is something that we helped accomplish. I have spoken to various people in the administration about it, including our Ambassador to Japan. I can assure you that it is something, based on the investigation we have done in the Armed Services Committee, that makes sense for us.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NUNN. Mr. President, I believe this is a good idea. I do not think there is any doubt about the fact that we are going to have to pay a whole lot more attention to the Japanese technological development. I think this is a splendid way to begin that in a more intensive and organized fashion.

I urge the adoption of the amendment.

Mr. GORTON. Mr. President, we believe that the Senator from New Mexico has come up with an imaginative, creative and, hopefully, productive idea. We strongly support the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2502) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I ask the managers at this time, as they are well aware, there are three of us who have an amendment relating to missile technology control, and we are ready to offer that amendment, I believe, if that is appropriate. Senator GORE and Senator MCCAIN were going to join me in the debate. They are cosponsors of the amendment.

Mr. GORTON. Mr. President, I regret to inform the Senator from New Mexico that on behalf of another Member on this side who does not wish this amendment debated tonight, I would be constrained to object to any unanimous-consent request to bring it up.

The PRESIDING OFFICER. Has there been a unanimous-consent request propounded? The Chair has not heard one.

Mr. BINGAMAN. Parliamentary inquiry, Mr. President. Did I need unanimous consent to lay aside the pending amendment in order to have this amendment considered?

The PRESIDING OFFICER. Consent is required.

Mr. BINGAMAN. I have just been informed by the Senator from Washington that that consent is not possible. So I will defer and hope we can resolve the difficulty.

Mr. GORTON. I trust we will be able to do so.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada, Mr. BRYAN, is recognized.

Mr. BRYAN. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, the world is witnessing a brutal act of aggression by President Saddam Hussein of Iraq against the independent nation of Kuwait.

This was an invasion of conquest pure and simple, disguised as an act of support for some bogus revolt within Kuwait.

How fitting that we should be reminded of Hitler's invasion of Poland, which this Chamber will remember was justified by an alleged Polish border atrocity, but the incident was in fact, a Gestapo plot to justify naked aggression.

Hussein's brutality is well known to this body. This is the dictator who plunged his own country into a decade long bloody war with Iran.

During this war, the use of chemical weapons were used not only against opposing armies, but Hussein actually used these hideous weapons against his own people.

Hussein, known as the "Butcher of Baghdad", has recently threatened to use chemical and biological weapons against Israel, threatening to annihilate half the population.

And it should also be remembered that Hussein now has ballistic missiles capable of making this barbaric threat a reality.

This is not some distant squabble in some far-off land which has no impact on our lives here at home. This morning, spot oil prices shot up several dollars per barrel as a result of the actions taken by Hussein.

Hussein, who began this crisis with demands for a massive increase in oil prices, appears for now, to have accomplished his goal, and one may wonder what future plans he may have in store for all of us, for it is estimated that every dollar rise in a barrel of oil translates into 5 cents more per gallon of gas at the pump.

Let us call this the Hussein tax on Americans, a tax that will not go to reducing our deficit, repairing our roads or restoring our competitiveness, but rather this tax will go to pay for Iraq's missile purchases, production of chemical weapons, and the construction of a nuclear power plant.

We are particularly vulnerable to foreign oil price increases and possible embargoes because we are now more, not less, dependent on foreign oil.

In 1973, the year of the Arab oil embargo, America imported a little over 36 percent of the Nation's petroleum requirement.

In July 1989, we passed a significant benchmark in our growing dependence on foreign oil by having to import more than half the petroleum used in the United States.

The Department of Energy estimates that this dependence is expected to grow even larger in the decade ahead.

This year the Senate will have an opportunity to send Hussein a message, that America will reduce its growing dependence on foreign oil by passing an improved Corporate Average Fuel Economy bill, or CAFE, a bill which, if enacted by Congress, will require the automobile fleet in 1995 to have a 20-percent fuel economy, and by the year 2001, a 40-percent improvement in fuel economy.

The American transportation sector consume 66 percent of all the oil used. If we are going to reduce oil use, we must increase the miles we travel on every gallon of gasoline consumed. There are many sound environmental and economic reasons to demand an increase in our fuel economy standards—these are all compelling and worthy of our taking action. But rarely have the American people been so rudely reminded of some grim facts as they have been over the last 24 hours. We have been reminded that there are still madmen in the world who resort to violence and aggression. We have been reminded that the price of oil still has a critical impact on our economy. We have been reminded that we squandered the breathing space of the 1980's—not using that period of low prices constructively to lessen our dependence on foreign oil.

"History repeats itself; that is one of the things that is wrong with history," said Clarence Darrow. Last night's rude reminder of invasion and oil price increases reveals the wisdom of Clarence Darrow's remark.

So, Mr. President, let us not repeat the mistakes of the 1980's and do nothing to reduce our growing dependence on foreign oil. The U.S. Senate should send Hussein a clear message, and enact this year a new fuel economy measure.

I thank the Chair, and I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I ask unanimous consent that I might be permitted to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ'S INVASION OF KUWAIT

Mr. D'AMATO. Mr. President, I know that shortly my colleagues will be introducing a resolution condemning Iraq's invasion of Kuwait. I want to commend those Senators who have worked together in a bipartisan spirit to come up with a very strong resolution: Senators PELL, HELMS, MOYNIHAN, BOSCHWITZ, BIDEN, KASSEBAUM, CRANSTON, and MURKOWSKI.

It is a good resolution. By the way, it has something more than rhetoric. It calls for the imposition of article 41 of the United Nations Charter, which calls for a full economic blockade against Iraq.

Also, article 42 of the United Nations Charter involving the use of air, sea, and land forces, in order to maintain or restore international peace and security. Saddam Hussein will probably move out of Kuwait, but with his puppet government in full force.

Mr. President, I will have more to say, but the majority leader wishes to speak.

I yield to the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask my colleague to yield so that we can proceed to the Iraqi resolution with respect to which I have authority to proceed under an earlier agreement. Since the debate is moving in that direction, the distinguished Republican leader suggests, and I concur, that it would be appropriate to bring that up now and permit a vote on that to occur.

CONDEMNING IRAQ'S INVASION OF KUWAIT

Mr. MITCHELL. Mr. President, in accordance with the prior unanimous-consent agreement, in behalf of Senator PELL, Senator HELMS, and others, I send the resolution condemning Iraq's invasion of Kuwait to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 318) to condemn Iraq's invasion of Kuwait.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I will add that this resolution is sent to the desk on behalf of Senators HELMS, MOYNIHAN, D'AMATO, MITCHELL, BIDEN, KASSEBAUM, BOSCHWITZ, KENNEDY, CRANSTON, DODD, COATS, DECONCINI, ADAMS, MURKOWSKI, and MCCAIN.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Will the Chair please state the unanimous-consent agreement?

The PRESIDING OFFICER. Debate on the resolution is for 40 minutes divided equally. No amendments or motion to commit are in order.

Mr. HELMS. I thank the Chair.

Mr. PELL. Mr. President, this resolution is being cosponsored by various of my colleagues who are shocked and horrified at the actions of Iraq's blitzkrieg invasion of Kuwait this morning and calls on the President to take effective and immediate action in cooperation with the world community to secure an immediate Iraqi withdrawal.

Iraq's unprovoked and lawless assault on its neighbor and friend follows a decade of Iraqi contempt for the law of nations and the most basic norms of human decency. In 1980 Iraqi dictator, Saddam Hussein, launched a massive assault on another neighbor, Iran. The ensuing Iran-Iraq War took over 1 million lives, squandered a fortune, and left both belligerents almost exactly as they were at the outset of the conflict.

In 1983 Iraq initiated the use of chemical weapons on its own people in the course of its war with Iran. For 5 years Iraq made extensive and increasingly effective use of these terrible weapons. Iraq's conduct constituted the most blatant and serious breach of the 1925 Geneva protocol banning the use of these weapons. Not even Adolf Hitler used chemical weapons in World War II but Saddam Hussein used them in the course of the cold war.

In 1988 Iraq's chemical warfare culminated in massive attacks against its own Kurdish minority. These attacks were part of a policy to depopulate the Kurdish areas of the country and were in my view tantamount to genocide. Many of these attacks occurred after the end of the Iran-Iraq War.

Iraq's human rights record is in the words of our State Department "abysmal." Iraq routinely engages in torture, arbitrary imprisonment and summary execution. A special feature of Saddam Hussein's regime is the torture and execution of children. Amnesty International, a very respected organization, has documented numerous cases where children had their eyes gouged out, their bodies scalded, and their fingernails removed. Parents are then obliged to pay the regime for the return of the mutilated and broken little bodies.

And what has been the response to the United States and the world community to these outrages? The sad answer is nothing until today.

In 1988 I authored, and the Senate three times passed, comprehensive sanctions against Iraq in response to its use of chemical weapons on the Kurds. The Reagan administration called my bill "premature" and it died on the last day of the 100th Congress. This year I am pleased to have joined Senator D'AMATO and the cosponsor and coauthor of the Iraq International Law Compliance Act which the Senate passed just last Friday. Yet, until today the administration opposed any effort to sanction Iraq.

For a decade, Iraq has acted with total contempt for international law. It has gassed its enemies and its own people in flagrant violation of the 1925 Geneva protocol to which it is a party. It has conducted its internal affairs without regard to its human rights obligations under the United Nations Charter, under human rights treaties to which it is a party, and under the Genocide Convention. It appears to be seeking to acquire biological and nuclear weapons in violation of commitments under the Nuclear Nonproliferation Treaty and the 1972 Biological Weapons Convention.

We have seen Iraq's lawlessness and, except for the actions taken by this body, we have done nothing. Iraq's invasion of Kuwait is the culmination of a global policy of appeasement. Like the world community of the 1930's, we did nothing as Iraq crossed one line after another. We now awake as did that world to the stark reality of a thug who can only be dealt with by firm action.

I commend President Bush for his prompt action in freezing Iraq's assets in the United States and for his total embargo of Iraq. It may be too late for Kuwait but it is not too little. These are significant steps. But more is needed.

We must work through the U.N. Security Council to impose, pursuant to article 41 of the charter, a total economic blockade of Iraq. And if the blockade does not work, we must consider, pursuant to article 42, other collective actions including the use of force.

The Soviet Union has announced that it is halting arms sales to Iraq. France and Britain have frozen Iraqi assets in their countries. In the first major crisis of the post-cold-war world, the major powers have acted with a common goal: To stop aggression and to force Iraq out of Kuwait. As one who worked in San Francisco helping draft articles 41 and 42 of the United Nations Charter, I believe now is the time when the world's community can and should make effective use of these provisions for forceful collective action.

The resolution I will offer endorses President Bush's actions earlier today and calls on the President to use the Security Council for an effective global action. Like his dictatorial predecessors of the 1930's, Saddam Hussein is a cancer on the world body politic. And we must excise that cancer now lest it engulf the Middle East region as that earlier cancer came to engulf the entire Eastern Hemisphere.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair. I ask unanimous consent that the distinguished Senator from Wisconsin [Mr. KASTEN] and the distinguished Senator from California [Mr. WILSON] be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield myself 3 minutes, and I ask to be notified after 2½ minutes.

Mr. President, I am confident that all Senators are aghast that yesterday, Iraq invaded and reportedly occupied Kuwait. In response, President Bush promptly issued Executive orders embargoing trade with Iraq, and freezing Iraqi and Kuwaiti assets in the United States.

This unprovoked Iraqi aggression poses a direct threat to America's interest in unfettered access to Middle Eastern oil. As such, I commend the President, as I know all Senators do, for issuing these Executive orders, and for making it clear that he will leave open military and other options for responding to the Iraqi invasion of Kuwait. I am also pleased to join with my good friend and distinguished chairman of the Senate Foreign Relations Committee in offering this resolution supporting the President's actions.

When dealing with the Middle East, debate in this country often focuses upon the Arab-Israeli conflict. What the Iraqi invasion has reminded us of is that the United States has interests in the region beyond the Arab-Israeli conflict, to be specific, the conflict between pro-Western governments and radical regimes and forces. It should not be ignored that America's ability to support pro-Western governments in this other conflict will also promote Israel's security needs.

Mr. President, the Iraqi invasion is another step in the efforts of Saddam Hussein to bully his way into leadership of the Arab world. When the Iran-Iraq war ended in 1988, Saddam Hussein turned his attention to rebuilding his nation's war-torn economy. To do this, he embarked upon a campaign to intimidate the oil-producing Arab States of the Persian Gulf into forgiving the wartime debt of over $30 billion owed by Iraq to these countries, and into reducing their oil production so that Iraq could increase its own production without forcing down the world price of oil.

The first step in this intimidation campaign was the call by Hussein for the withdrawal of American warships from the Persian Gulf—a call which the United States wisely ignored. Next, Hussein proceeded to construct a quasi-alliance among the non-oil-producing Arab States of Jordan, Egypt, and North Yemen. Then he stepped up efforts to obtain nuclear weapons and the technology by which he could build ballistic missiles. He also raised his anti-Israel rhetoric to appeal to the radical elements throughout the Arab world. Now, he has gone ahead and invaded Kuwait, a country from which we import 8 percent of our petroleum needs.

Mr. President, all these efforts are part of a campaign to increase Iraqi revenues from oil, obtain forgiveness for billions of dollars in debts owed to Arab countries, and ultimately gain leadership of the entire Arab world. He will not stop with Kuwait. He has more battle tanks than Rommel, Montgomery, and Eisenhower had combined during the North African campaigns of World War II. He has chemical weapons and ballistic missiles, and is developing nuclear and biological weapons. I fear his successful invasion of Kuwait will only whet his aggressive appetite and increase his ability to impose his will upon other nations.

Mr. President, over the past 2 years, a number of actions were taken here in the Senate aimed at putting a stop to Hussein's antics. Unfortunately, none of these actions became law.

On three occasions in 1988, Senator PELL and I offered amendments to impose wide-ranging sanctions on Iraq in response to Hussein's use of chemical weapons against his own civilians and against Iran in the gulf war. Unfortunately, all three amendments were killed by the House of Representatives.

In 1988 and again in 1989, I offered amendments to prevent any assistance to the missile program of Communist China until China stopped providing missiles to Iraq, Iran, Syria, and Libya. Unfortunately, both these amendments were killed by the House of Representatives.

On May 17 of this year, the Senate approved the chemical weapons bill, which combined S. 195 introduced by the Senator from Rhode Island and S. 238 introduced by this Senator. The bill passed by the Senate would impose sanctions on countries which use chemical weapons in violation of international law and on Western firms which help Iraq and other radical countries to gain chemical warfare capability. Unfortunately, the House of Representatives has yet to appoint conferees on this legislation.

One final point: Just last week, the Senate approved an amendment offered by the able Senator from New York [Mr. D'AMATO] to the farm bill which would impose wide-ranging sanctions on Iraq. Hopefully the conferees on the farm bill will send the D'Amato amendment to the President without altering its content.

Mr. President, the United States has a strategic, political, and moral stake in seeing that Saddam Hussein does not succeed in his invasion of Kuwait, nor in his campaign of intimidation against Saudi Arabia and other oil-producing Arab States, nor in his drive to accede to leadership in the Arab world.

The actions taken by President Bush this morning and passage of this resolution are the first steps in securing American interests in the Persian Gulf. To follow up, President Bush must make it clear that he retains the right to use military action, and should he exercise the right, Congress must support him. Beyond this, Congress must send to the President at the earliest time, the chemical weapons bill, S. 195, and legislation enacting sanctions on Iraq.

The PRESIDING OFFICER. The Senator's 2½ minutes are up.

Mr. HELMS. This instance brings to mind and emphasizes what happened in this Chamber and in the House of Representatives in the early 1970's when Congress took the lead in virtually dismantling domestic oil production in the United States. Maybe we are learning the lesson too late, but at least we are learning it at last.

Mr. President, I yield whatever time the distinguished minority leader may need.

The PRESIDING OFFICER. The minority leader is now recognized.

Mr. DOLE. Mr. President, I will take just 1 minute because I know a number of Senators want to speak.

"WAKE-UP CALL" FOR THE WORLD

Mr. DOLE. Mr. President, Iraq's brutal dictator, Saddam Hussein, today sent out a harsh wake-up call to those who have been prematurely declaring a new era of international peace, and to those in our country who are proposing the piecemeal dismantling of our own defenses.

I think he alerted us and a lot of other countries around the world that we do have danger spots and he certainly is not reliable. It may be everything that has been said about him in the past may be true. We will know that in a very short time.

His planes, and tanks, and artillery spoke loud and clear: The age of aggression is not yet over. And the need for a strong, vigilant America is as great as ever.

The action we take on the defense bill the next hours and days will send an important part of the message we

must send: That the United States will retain the military strength to defend America's vital interests, both at home and around the globe.

The action we take on this resolution will also send an important part of the message: That the Senate unequivocally condemns Hussein's agression, and stands behind President Bush's leadership in meeting this new challenge.

Saddam Hussein is acting like an international gangster—heavily armed and extremely dangerous. Our response must be to stand firm; stay cool; know where to draw the line in the sand, and be prepared to back it up.

As the resolution makes clear, President Bush has acted swiftly, and shown we mean business. We have "turned the first screw"—economic sanctions, including a total trade embargo. And, as President Bush has made clear, we have not ruled out following up that action with other options. Nothing has been ruled out, and should not be as long as Iraq's forces remain in Kuwait, and threaten other nations of the region.

The resolution urges the President to continue the tough stand he has taken. I would particularly indicate my support for these additional actions, some of which are listed in the resolution, and all of which I believe the President is already pursuing or shortly will.

First, there are about 4,000 Americans in Kuwait, and about 500 in Iraq. Our first responsibility is to do everything possible to ensure their safety. I believe that, as the airports in Kuwait and Iraq are reopened, many will be evacuated.

Until they do leave, though, let Saddam Hussein understand this: We will do whatever is necessary to protect our citizens.

Second, the President has taken the right step in imposing tough economic sanctions on Iraq. But economic sanctions, to be effective, must be international in scope.

I applaud the decision announced by Prime Minister Thatcher today that Britain will join our embargo of Iraq. All of our allies should join up immediately.

Third, we must step up our efforts to stop the flow of arms and weapons-related technology to Iraq. The Soviet Union has already announced a suspension of military shipments to Iraq. I commend them for that responsible action. I understand the Soviets were also helpful at the United Nations, in supporting a strong resolution demanding an end to the Iraqi aggression.

All other nations involved in selling arms to Iraq—particularly the Chinese and French—must join in the arms embargo immediately.

And the United States unilaterally, and through international efforts, must take real steps to choke off the flow of technology and material that Saddam Hussein is using to produce chemical weapons, develop advanced missiles and nuclear weapons, and work on biological weapons.

Fourth, we must reaffirm our determination and capacity to protect our interests and stand by our friends in the region.

Specifically, we must tell Hussein loud and clear that we will not tolerate any military action against Saudi Arabia or any other nation in the region—and we must mean it.

Fifth, we should also keep an eye on Syria's President Assad. There is no love lost between Assad and Saddam Hussein, their competition for leadership in the Arab world is bitter and long-standing. In some quiet ways, Assad may see it as in his interest to support efforts to build regional pressure on Hussein.

Sixth, that underscores one final and important point: A great deal of responsibility to resolve the current crisis and restore Kuwait's sovereignty falls on Arab shoulders.

I understand that many of them are being privately supportive of our efforts to turn the screws on Hussein, but publicly silent.

That will not wash.

Every Arab state is a potential target of Hussein's aggression. None of them are going to appease their way to real security. None of them can afford to sit this one out.

They must take their own strong stand against Hussein's aggression. And they must avoid being whipsawed into anti-American posturing and rhetoric in response to strong actions we might be forced to take, to ensure the stability of the region, and the security of our interests and friends there.

We do have responsibilities in that region, but so do they. And they ought to understand—particularly those who benefit from our presence and call themselves our friends—we will do our share; but we are not going to pull their chestnuts out of the fire, while they try to play both sides of the street.

Mr. President, the Senate is ready to speak out, to condemn Iraq's aggression and support President Bush's strong leadership. I am confident we will speak clearly and unanimously. I only hope that Saddam Hussein will listen, before it is too late.

I think it is rather timely that we are talking about what is happening there at the same time we have the defense authorization bill on the floor. I think many of us may stop and think about which direction we want to go. But in any event, I applaud what we are doing here this evening.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. MOYNIHAN. Mr. President, I rise in support of the resolution condemning Iraq. I also wish to endorse the very powerful statement of the chairman of the Committee on Foreign Relations, who was present at the creation of the United Nations. He speaks today of the situation that develops when we ignore the rules we have established to govern the conduct of nations.

As he said, for a decade Iraq showed nothing but contempt for international law and we showed nothing but disinterest in its violations thereof. Now we see the consequence of an aggressor moving step after step with no resistance.

The one thing we have done on this floor to sanction Iraq was offered by my distinguished colleague and friend, the Senator from New York, Mr. D'AMATO, with Mr. PELL, not 2 weeks ago. His bill provoked little but bewilderment, disbelief and, I fear, opposition from the administration. I hope this will now cease. I hope we will recognize as a result of the first military crisis of the post-cold war world, that either the international community, led, if possible, by the United States, will insist upon international action to punish violations of law, or we will reap the whirlwind that will follow.

How will the United States and the world respond to Iraq's invasion of Kuwait? During the fog of the cold war the United States had a reflexive response to such crises: we supported our client state and opposed their client state. No need to ask who they were. The rules of international law became less and less relevant to our action. Expedience governed.

Might we now return to the idea that law is at issue here? In the coming days many will denounce Saddam Hussein for his immoral behavior. Immoral it is, but, more importantly he has committeed a crime. Without question, the single most important norm of international law—the cornerstone of the United Nations Charter—is article 2(4):

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

This law has been violated. Should we be surprised? Saddam Hussein has violated other solemn international obligations with impunity. His repeated use of chemical weapons, a flagrant violation of the Geneva Protocal Against the Use of Poisonous and Aphyxiating Gases, went unpunished.

On June 15 of this year I discussed this issue with Assistant Secretary Kelly. He found it difficult to even use the term "illegal" to describe Hussein's behavior and pleaded that he could not comment on these issues because he was not an "international lawyer":

Senator MOYNIHAN: You wish they had not done it. Does it mean anything to violate the treaty? Does it mean anything to violate an international convention on something as serious as gas warfare? Can the United States do anything?

Mr. KELLY: Senator, in the autumn of 1988 following the outrageous uses of these noxious gases——

Senator MOYNIHAN: Instead of saying "outrageous" why do you not say "illegal"?

Mr. KELLY: Following the use of these gases in contravention of the 1925 Geneva Protocol——

Senator MOYNIHAN: That is pretty close for the Deparment of State.

Mr. KELLY: I should hasten to add, I am not an international lawyer.

Our sense that law is and ought to be an integral part of our diplomacy has simply disappeared. As I have noted, the administration resisted imposing sanctions on Iraq. Why should Hussein think that we are serious about international law?

Now, however, with the cold war over and with the Soviet Union joining us in demanding that Iraq withdraw, perhaps we will approach this situation differently. In 1979, the Carter administration had to be prodded into taking the Iranian Embassy seizure to the International Court of Justice. This time the Security Council met at 5 a.m. the day after the attack. How the United Nations responds to this challenge will do much to shape its role in the post-cold-war era.

There is also a lesson here for Kuwait. For years this small nation acted as if its votes in the United Nations were of no consequence to the United States. In the last year Kuwait voted with the United States only 10 percent of the time. On the 16 most important issues to the United States, Kuwait voted with the United States exactly twice. They have acted with contempt of United States concerns in the United Nations and, I would add, with contempt of the true purposes and principles of the United Nations. Now this small nation's independence may well depend upon the United Nations. Obviously we must act to uphold the norms of the Charter rather than responding with pique to Kuwait's behavior. But other nations would do well in the future to bear in mind the importance of the United Nations and work harder to join the United States in helping it fulfill its true potential.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Arizona.

ARE WE SEEING MOVEMENT TOWARD A "GREATER IRAQ?"

Mr. DECONCINI. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee, Mr. PELL, first for his leadership, and the ranking member, Mr. HELMS for bringing this resolution to the Senate floor.

Mr. DECONCINI. Mr. President, the events of the past few days appear to give some credence to the belief that Saddam Hussein, Iraq's President, has visions of himself as another Gamel Abdul Nasser—as a unifier of all the Arab nations. Others have said that he is spending millions of his poor nation's resources to rebuild the ancient city of Babylon because he envisions himself as the 20th-century Nebuchadnezzar—a larger than life individual with an historic destiny.

Hussein ordered the invasion of Kuwait by Iraqi troops under the cover of darkness.

He used the same cowardly pretext that the soviets used, "we were invited in." They may have been invited, but only after the fact, and only after a puppet, provisional government was installed. This invasion occurred even while his government was supposedly negotiating with the Kuwaiti Government to resolve the tensions between the two countries. This latest action demonstrates to this Senator that the prospect of a new "Pan-Arab" movement is on the rise. And it is apparent to me that Saddam Hussein plans on leading this movement.

Last week the Senate spoke out loudly against the intimidating actions taken by Iraq against its tiny neighbor to the south. We passed a resolution calling for sanctions against Iraq because of its past behavior and because of its current activities. Let me again briefly highlight why I believe it is important that we took that step and why it is even more important that we take even stronger measures.

Iraq violated international law by using chemical weapons against its own people when it horribly gassed the minority Kurds. Iraq also has an abysmal human rights record. It has involuntarily detained people without charge. Iraq also executed foreign nationals whom it claimed, after only pro forma, circus-like trials, were spies against the state.

Also, Iraq has reportedly been involved in developing biological and even nuclear weapons technology. It has demonstrated that it can launch intermediate range missiles. It has violated international law by attempting to illegally import advanced computer technology for use in developing nuclear weapons as well as materials which could be used to build a big gun to threaten its neighbors.

Today, however, Saddam Hussein has crossed the threshold. He has taken that final step which even those in the Bush administration, who felt they could work with Hussein in order to moderate his behavior, cannot ignore. It is obvious to this Senator that Saddam Hussein is someone who only listens to the little voices which encourage him to continue engaging in his reckless, inflammatory, and brutish behavior.

Once again, he has violated international law by invading a sovereign nation.

Hitler invaded Czechoslovakia, and we ignored it. Japan invaded Manchuria, and we ignored it. The Soviets invaded Budapest and Prague and, again, we ignored it. In each of those instances, the lack of immediate action by the West resulted in a prolonged period of pain. The consequences of those invasions were corrected only after many years and much suffering and spilling of blood.

Clearly, the President must consider taking some effective actions in the next day or two. He has taken some positive initial steps by freezing all Iraqi and Kuwaiti assets in this country so that Iraq cannot get its hands on these resources.

I would also urge the President to engage in seeking a collective response with our allies, the Soviets, and the other Arab Nations. Secretary of State Baker, in his meetings with Soviet Foreign Minister Shevardnaez, has already raised the issue of a termination of Soviet arms to Iraq and it was just announced that the Soviets have said that they have terminated these deliveries. This is only proper, for after all, it is Soviet guns and tanks which are being used even as we speak by Iraq against innocent Kuwaiti citizens.

We must ensure that all civilized nations will end the steady stream of arms to Iraq. We must also work with our allies to isolate Iraq politically, economically, and diplomatically while at the same time providing Kuwait and others who may be threatened by Iraq's expansionist actions with appropriate and effective responses. These are actions which the President must take and ones which I am prepared to support.

The current situation in the Middle East is further testament for the need to both develop alternative energy resources and undertake aggressive energy conservation measures. As was pointed out on the floor today, we are currently importing more than 50 percent of our total crude oil consumption. Since 1983, oil consumption in this country has risen almost 10 percent. The United States has the world's largest oil demand while only containing 5 percent of the oil reserves. OPEC countries on the other hand possess 70 percent of the world's oil reserves. I think my colleagues will agree that this is a prescription for economic disaster.

Many will argue that because of what is happening in the Middle East we need to develop our domestic conventional energy resources. Clearly, this is a course we must pursue. However, to continue to focus only on fossil fuels is incredibly shortsighted. We have at our disposal vast amounts of untapped renewable energy sources such as solar, wind, and geothermal energy. These resources must be developed. The recent glut in the world supply of oil and resulting drop in prices has resulted in complacency in developing these energy sources. According to an article that appeared in the National Journal last year, West Germany in 1989 with an economy a fourth the size of the United States', spent approximately $140 million on research on renewable energy sources. The United States, that same year, spent approximately $125 million. India, whose economy is one-twentieth the size of ours, spent approximately $178 million.

Nine percent of our total U.S. energy demand currently comes from alternative energy sources. If this country were to undertake an aggressive program to implement renewable energy programs, one-fifth of the total energy demand of this country could be met from these sources.

The development of renewable resources is only part of the answer. We also need to undertake aggressive energy conservation measures as well. What happened today in the Middle East reinforces the need for the Senate to pass legislation introduced by our distinguished colleague from Nevada, Senator BRYAN, which would increase fuel economy standards in automobiles. Two-thirds of the oil we use—25 percent of the total oil burned in the free world—goes into U.S. transportation. The current Café standard, instituted in 1975 has resulted in doubling of the fuel economy of automobiles in this Nation—from an average of 13 miles per gallon in 1973 to 26 in 1987. This has resulted in a savings of 2.5 million barrels of oil. The Café standards contained in the Bryan bill, will save an additional 49.1 billion gallons in fuel.

We must not allow ourselves to be lulled by the soothing sounds of Hussein's apparent compromise moves. We must not forget that it was the "Butcher of Baghdad" who gassed his people, fought a decade-long war with one Arab neighbor and who began to bully other neighbors. We must not forget that Hussein, like Hitler, cannot be bought off. First, Hussein wanted higher oil prices. He got them. Next, he said he wanted negotiations with Kuwait. He got the talks, but broke them off. Now, he wants Kuwait. We do not know where Hussein will stop. He must not keep Kuwait. We must do all that we can to ensure that this madman stops getting everything that he wants.

Let me say, Mr. President, the time has come, as the junior Senator from New York pointed out last week—and I was pleased to support his resolution at the time—that the time has come to send that signal. And we must be firm now and we must not rule out some selective—I underscore selective—military preemptive action toward this absolutely irresponsible person who is leading this country and that part of the world to, perhaps, a disaster.

We are not facing a rational leader here. We are facing someone similar to Mr. Qadhafi of Libya, someone who is willing to persecute and diminish and murder his own people so that he can foster his own national interest and international interests. This man used chemical weapons against his own people. I happened to be in Turkey just 1 year ago this month and witnessed some of those people that escaped, that were not killed by this man's chemical weapons, the Kurds, Iraqi Kurds.

This is something that we cannot ignore. It is a human rights violation. What this President has done has got to be responded to by the United States and the world community.

I thank the chairman of the committee for yielding me this time.

Mr. HELMS. Mr. President, I yield 4 minutes to the distinguished Senator from New York [Mr. D'AMATO].

The PRESIDING OFFICER. The Senator from New York is recognized for 4 minutes.

Mr. D'AMATO. Mr. President, I thank the distinguished Senator from North Carolina [Mr. HELMS] for his leadership in this area, and also my good friend, Senator PELL, and his committee.

Mr. President, appeasement has never curbed the appetites of despots such as Hitler and Hussein. And, yes, Mr. President, we are responsible today for what has taken place. You see, Mr. President, the Frankenstein monster that we helped create is Hussein, and it is time that we pulled the plug on him.

Mr. President, we fed him. We built this monster. We traded with him. We gave him technology. We allowed the world community and this Nation's chemicals to go there, so that he could be the threat that he is today.

We purchased his oil so that he could buy the arms, and with indifference, we stood aside and cheered him on. Yes; just as if it were those who cheered on Hitler because they said he was the answer to communism. We cheered him on when he was fighting the Ayatollah Khomeini. It made no difference to us who started the war.

When the Stark was sunk and 38 American boys lost their lives, what did we say? Oh, an accident.

We sent him grain to feed his people, so that we could feed our piggy banks. And last week, it was a disgrace on this Senate to have to fight to get us to say cut off credits. All the boys in the oil patch were worried, the boys in the agripatch were worried.

You are never going to defeat evil, and that is what this man is, unless you stand up to it. Tonight, look how many will vote, 100 to zero, and say, oh, we stood up against aggression. Nonsense.

In this same body, we quivered in 1982 when a brave country took Iraq and destroyed the nuclear reactor. God help humanity if this man had the ability to deliver atomic weapons like he would like to have. We shuddered, we condemned, the world condemned Israel for knocking out that reactor. We owe an apology to mankind for our indifference just as we did as it related to Hitler. What do we do know? Oh, we have sanctions. Our State Department is really going to work, or our Government is really going to work to make sure that these sanctions enjoy the support of all of our so-called allies.

I am sick and tired, for one, to have so-called allies not help us out. They better join in with us.

I will tell you something. We need a blockade, and this resolution talks about that. We need an economic blockade and we should talk to the Turks in that pipeline. Let this guy drown in that sea of oil that he now has. We want Kuwait back. And not just with a puppet Government. We want his troops out of there and we want the families that ruled to be reinstated.

But I have to tell you something. I do not know whether we have the guts to do it. Are we going to stand up to the Japanese? They furnished all the lobbyists. They have got all the big law firms. Are we going to allow them just to say: "Oh, sorry, we are going to do what is best for ourselves"?

We need a blockade. We have to be in the leadership. We need the world community working with us.

It is time we put an end to the Frankenstein that we created.

Yes, Mr. President, we will agree to this resolution. But I am ashamed of our lack of action, not just a week ago but over a period of time. The expedience of politics has ruled, to our shame. Today we are in the situation we are in as a result of that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield 1 minute to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. COHEN. Mr. President, many years ago one of my mentors gave me a watch upon the termination of my employment. It had three Latin words. The words virtute non verbis, meaning "deeds and not words."

Unfortunately, too often as it pertains to Iraq and other types of dictators, Saddam Hussein, we have passed resolutions—more words, few deeds.

Each time we talk about sanctions they are undercut by a failure on the part of our allies to support that particular effort.

There is a writer I am familiar with, William Inge. He says, "It is useless for the sheep to pass resolutions in favor of vegetarianism, while the wolf remains of a different opinion."

I think it is important to remember we can pass all the resolutions we want to this evening. Unless we are willing to take firm action then the words will be meaningless and we will not have the deeds to match the words.

I hope this is not simply an empty resolution; that we take action to follow up these words.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent Senator PACKWOOD be added as a cosponsor.

I yield 3 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized for 3 minutes.

Mr. MURKOWSKI. I thank my colleagues, Senator PELL and Senator HELMS. I want to remind my colleagues, yesterday we were importing approximately 700,000 barrels a day of oil from Iraq. We were the largest purchasers, Mr. President. And we were committed to purchase a million barrels by the end of this month.

We have seen oil increase $5 a barrel within the last 10 days. We have also seen Iraq acquire an additional 12 percent of the oil reserves of the world. Not only the oil reserves but the production capability.

He formerly had approximately 14 percent in Iraq. By picking up Kuwait it gave him a total of approximately 24 percent.

Mr. President, he is marching on to Saudi Arabia, make no mistake about it. If he acquires the oil productive capability of that nation that will give him another 20 percent. He will be then in control of nearly 50 percent of the oil reserves of the Mideast, which are the largest in the world, and approximately 50 percent of the production of that area.

I had an opportunity to meet, with a number of my colleagues, with Saddam Hussein. There is no question in my mind he will go on for the brass ring. The question of a blockade; yes. We must take a stand now because reality is staring us in the face. We cannot escape it.

Mr. President, OPEC has fed us cheap oil like a drug dealer, developing a dependency. Make no mistake about it, like a drug addict, nearly 40 percent dependent on Mideast oil, we will be willing to pay anything to keep the oil flowing to the United States and our allies. Just like a drug addict whose body is wasting away, so is our domestic oil industry and our energy security.

It is my hope, Mr. President, that the rationale as a consequence of this crisis will lead us to achieve a commitment to energy independence for this Nation by bringing in some of our frontier areas and Alaska is part of those frontier areas.

Mr. President, I have a few further thoughts on this subject.

The Iraq invasion of Kuwait focused national attention on how dependent our Nation has become on foreign oil imports. Actions of last 24 hours have raised serious questions about U.S. energy security.

Presidential order requires a total embargo on all purchases of petroleum and petroleum products from Iraq. Further, U.S. oil companies cannot purchase Iraqi oil for export through a third country.

Will ban on imports extend to Kuwait oil now that Iraq controls those fields?

What is the U.S. obligation to keep oil flowing through the Persian Gulf? Dedication of 7th fleet? What actions will we have to take to secure oil supplies?

Should the United States take any further steps to protect other Persian Gulf oil producers? For example, Saudi Arabia—or small states like the United Arab Emirates?

What is status of U.S.-flagged tankers? Will those tankers be seized under the provisions of the executive order freezing Kuwaiti assets?

Will OPEC policies be controlled by gun diplomacy in the future? Will OPEC now become a tool of Iraq?

What will be required to protect the flow of oil to countries like Japan—which receives 59 percent of its oil from the Middle East?

This was not without warning. May 28 Arab League summit Key Note speech—Saddam Hussein called on fellow Arab leaders to declare that strong support for Israel "precludes American friendship with the Arabs" and suggested using oil as a lever to force a change in U.S. policy in the Middle East.

Hussein said, "We have to announce in the loudest voice possible that nobody, and I repeat nobody * * * has the right to enjoy our resources while it opposes us. What I am calling for is to employ all our resources and potential, and if we do that, we do not need battles."

Decreasing oil security is a serious problem: Oil is a powerful geo-political weapon. Oil embargoes are not relics of the past. Soviet Union effectively embargoed Lithuania. Embargo of 1973 by countries providing only 6 percent of U.S. oil supplies. Today those same countries provide 30 percent of U.S. oil supplies. Persian Gulf alone provides 17 percent of U.S. supply. Compare this with 3 percent in 1985.

Iraq oil statistics: Iraq is second only to Saudi Arabia in oil reserves. Iraq exports 2.7 million barrels per day. Iraq provides 600,000 barrels per day to United States. This might have gone up to 1 million barrels this month. United States is Iraq's largest oil customer. United States obtains 8 to 10 percent of oil imports from Iraq. Japan obtains 5 percent of oil imports from Iraq. Western Europe obtains 10 percent of oil imports from Iraq.

Kuwait oil statistics: Kuwait exports 1.8 million barrels per day. Kuwait provides 120,000 barrels per day to United States. United States obtains less than 2 percent of oil imports from Kuwait. Japan obtains 6 percent of oil imports from Kuwait. Western Europe obtains almost 5 percent of oil imports from Kuwait.

Problem of U.S. oil dependency: United States consumes 16 million barrels of oil per day. Produces 7.4 barrels per day. In January 1990 United States imported 9.13 million barrels per day. We are over 50 percent dependent on other countries.

Increased world oil prices affect the U.S. trade deficit: The U.S. trade deficit is $109 billion. Oil imports last year amounted to $45 billion—40 percent of our trade deficit. We spend twice as much on foreign oil imports as on Japanese cars. Trade deficit with OPEC countries tripled in the last year. $475 million to $1.8 billion.

The cost of our military obligations is a real cost of imported oil: Costs incurred to protect Persian Gulf oil over $14 billion in 1987. Taking military costs into account, this oil costs over $52 per barrel—over three times its nominal cost. Carrier *Independence* is now headed toward the Gulf.

We also must consider the unmeasurable cost of imported oil: Tragic loss of 37 American seamen aboard the U.S.S. *Stark*. Should not let our energy policy failures cost us young American lives in securing a supply of oil from the Middle East?

Indicators of a failure to have a forward looking energy policy:

First. Drop in U.S. oil production: U.S. oil production is at its lowest point in 26 years—currently 7.4 million barrels per day and dropping. Dropped over 500,000 barrels per day since early 1986 (20 percent reduction). Prudhoe Bay production dropped 10

percent in 1989. Future U.S. crude oil production could fall 4 million barrels/day by 2010.

Second. Increase in U.S. oil imports: U.S. imports higher now than during the oil crises of the 1970's. The 1989 yearly average for United States was 46 percent of consumption. January of 1990, imports reached a record 54 percent. Predictions for 2010 call for imports of 54 to 67 percent of consumption.

What are we doing to reduce our dependence on imported oil? Withdrawn over two-thirds of our public lands from mineral leasing. Moratoriums on leasing in off-shore areas. Chukchi Sea OCS oil lease area may contain billions of barrels of oil.

TransAlaska Pipeline flow is declining. Capacity of 2.1 million barrels per day—28 percent of U.S. production. Now carrying 1.7 million barrels per day—declining 10 percent per year. In year 2000 flow will have decreased to 500,000 barrels per day without new discoveries. At current prices, 300,000 barrels per day is necessary to operate pipeline—if not operating, law requires line to be removed.

ANWR remains off-limits: ANWR could reduce the U.S. trade deficit by some $90 billion. ANWR is 19 million acres, size of the State of South Carolina, less than one-tenth of 1 percent would be impacted at full production. Average estimates are 3.4 billion barrels of reserves. Advances in oil technologies—small footprint. Endicott, sixth largest U.S. oilfield in the United States—producing 110,000 barrels per day. Footprint of only 55 acres, the size of a small family farm.

Increasing consumption and decreasing capacity world wide put Saddam Hussein in the drivers seat.

Middle East is already producing in excess of 90 percent of capacity—limitation is infrastructure: Producing 23 to 24 million barrels per day. OPEC sustainable capacity today is little in excess of 25 million barrels per day. The call on OPEC is growing at over a million barrels per day each year. Will soon reach capacity—with supply shortages and price shocks.

Changing political and economic structure of Soviet Union and Eastern Europe: The Soviet Union is the world's largest oil producer—11.4 million barrels per day. Soviet Union is a major supplier of oil to the United States. Upheavals in U.S.S.R. decreased production 300,000 to 400,000 barrels per day in 1990 after declining by a similar amount in 1989. Soviets less willing to provide cheap oil to Eastern European neighbors. East European countries rely more on world market oil supplies. More productive Eastern Europe will demand more oil in future.

Growth in oil consumption in the Far East: Japan increasing oil demand 4 to 5 percent per year. Developing Far East increasing oil demand 6 to 10 percent per year.

CONCLUSION

OPEC has fed us cheap oil like a drug dealer developing a dependency. Just like a drug addict, at nearly 40 percent dependent on Middle East oil, we will be willing to pay anything to keep the oil flowing. And just like a drug addict whose body is wasting away, so too is our domestic oil industry and our energy security.

What price are we willing to pay if Saddam Hussein increases the price of oil or turns off the tap? What sacrifices will have to be made with an oil supply reduced by 40 percent? Will more American lives be lost?

These are important questions which this body must address.

Mr. HELMS. I ask unanimous consent notwithstanding the unanimous-consent agreement as to time, the distinguished Senator from Pennsylvania [Mr. SPECTER], be recognized for 10 minutes and that will conclude all of our time.

The PRESIDING OFFICER. The Senator from North Carolina has 7½ minutes.

Mr. HELMS. I understand.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. SPECTER. I thank the distinguished ranking member. The balance of the 7½ minutes will be adequate. I thank my colleague very much.

Mr. President, the resolution which is before the Senate is a very significant resolution because it calls for a blockade, which is an act of war. It calls further for additional multilateral actions, involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

This is a very important resolution, Mr. President. I have reread the Tonkin Gulf resolution which was passed on August 10, 1964. I find certain substantial similarities between the Tonkin Gulf resolution and this resolution. We all know of the consequences of the Tonkin Gulf resolution; authorizing what was in effect the Vietnam war.

Mr. President, it is my hope that we will not have to undertake the forceful measures called for in this resolution.

The President acted very promptly today in his acting to institute an embargo, total economic sanctions. The Prime Minister of Great Britain, Margaret Thatcher later today joined President Bush. If our allies take the same action, then Iraq may have all of its oil to itself. If it has all of its oil to itself it will not be worth very much, if anything. That may resolve the issue.

But, if necessary, this is a forceful statement by the Senate about a blockade which could quarantine and cut off Iraq totally, and the multinational action has the potential to be very effective indeed.

Mr. President, I think it is unfortunate that we have not drawn the line before or have not spoken forcefully and backed up our words with action with respect to the problem of OPEC generally. There is an agreement among the OPEC nations to restrain the production of oil and thereby to raise the price in an artificial way.

If that were to be done in the United States, it would be a violation of our antitrust laws which prohibit conspiracies in restraint of trade. But we do not have the authority to impose our antitrust laws on foreign sovereign governments.

We should say, Mr. President, and very forcefully, that there is a fundamental value, so far as the United States sees it, that we condemn restrains of trade and we condemn agreements to raise artificially the price of oil to our detriment. The sanction that we could employ, Mr. President, is when that is done by the OPEC nations—many of them our good friends—we should retaliate economically so that for every dollar they seek to gain, we ought to be sure they pay a dollar or two or three so that we say to them: This is a fundamental American value, a value shared in the Western World, and we simply are not going to tolerate it.

Then there would be less incentive for Iraq to take action against Kuwait or the United Arab Emirates in order to enforce the OPEC agreement. Therefore, had we acted at an earlier stage, we might have avoided the underlying basis for the action that Iraq has taken.

But there is no question, Mr. President, about the need for very positive and very swift action in these premises. It was just a week ago tonight that the Senate debated a resolution on sanctions. We agreed to it the next morning, Friday morning. It is less than 24 hours since this news broke in the United States and I believe this is an important line to be drawn and a important resolution to be pursued.

I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded the remainder of his time. The Senator from Rhode Island has 10 minutes remaining.

Mr. PELL. Mr. President, how much time does the minority have?

The PRESIDING OFFICER. The minority has 2½ minutes.

Mr. PELL. Mr. President, I ask unanimous consent that the name of Mr. FORD, the Senator from Kentucky, be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. BENTSEN. I say to the Senator from Rhode Island I wish to be added as a cosponsor.

Mr. CHAFEE. Mr. President, I also ask to be added as a cosponsor.

Mr. PELL. Mr. President, I ask unanimous consent that Senator BENTSEN and Senator CHAFEE be added as cosponsors of the amendment.

I yield to the Senator from Maine.

Mr. COHEN. Mr. President, I also wish to be added as a cosponsor.

Mr. PELL. I am delighted to ask unanimous consent to add the Senator from Maine, and the Senator from Connecticut, [Mr. LIEBERMAN] as cosponsors of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Maine [Mr. COHEN] are added as cosponsors.

Mr. PELL. And the Senator from Nevada also.

The PRESIDING OFFICER. The Senator from Nevada is also added as a cosponsor.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. PELL. Yes, I am happy to yield.

Mr. McCLURE. While everyone is joining together in this act of condemnation, and the senior Senator from Idaho joins in that condemnation in the actions of this Government of Iraq in invading Kuwait, I want to call attention to just a couple of things we should be a little more cautious about.

The Senate blusters and blows. Nothing can be more dangerous to the security of our country today than blustering and blowing and doing nothing. I commend the Senator from Maine for having pointed out a moment ago that actions are more important than words. Unfortunately, the Senate is more adept in their words than affirmative action.

Some of the allegations in the resolution are, in my opinion, unfortunate because they are not proven allegations and they are given as statements of fact when, as a matter of fact, we do not know whether they are factual or not. We do know the fact of the invasion.

Second, I am not going to say to my friend what I have been trying to say for years with respect to oil policy. But where are all these people today who are condemning the actions of Iraq and worrying about oil? Where were they when we were voting on Federal policies with respect to domestic production of oil? Where were they when we were voting wilderness designations and OCS moratoriums and bans on exploration in Alaska because we created the conditions under which this man can now operate?

Let us be very cautious when we start talking about the use of military force, that, indeed, we better mean it or we better not say it. Nothing could be more dangerous to the security of this country than to start an action and then not follow through on it.

Finally, Mr. President, I agree with the call for multilateral force and multilateral action. We cannot do it alone. Let us have no illusions about that. We cannot do it alone, either economically nor militarily. There are many in this world who would like the United States once again to bear all of the burden. It will not work. We have to have the support of our friends and allies in the world.

I hope this action is not the end of what we do in this Senate or in this country. I hope we are able to get the support of the people who are notably absent, both within this Congress, within this administration, and within the Western World in our alliance to bring about a more peaceful, more stable, more prosperous economy.

I thank the Chair, and I thank the Senator for yielding this time.

The PRESIDING OFFICER. The Senator from Rhode Island has 6 minutes. The Senator from North Carolina has 2½ minutes.

Who yields time?

Mr. BENTSEN. Mr. President, will the Senator yield me 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Thank you.

Mr. President, what we are looking at here is a situation where a man has been able by force to seize control of Kuwait, which will make him, in my opinion, the largest oil producer in the world. Moreover, he is right up against Saudi Arabia. There is no question in my mind but that that is his next target. If he takes over that nation and then the Emirates with the kind of power that he has, he is going to have the entire world's economy within his grasp. He is an evil man; he is a cruel man. He has practiced genocide on his own people, and has shown his willingness to engage in chemical warfare.

I was thinking back to only some 3 years ago when I introduced in this body a measure called peril point legislation to say that the President of the United States should have to propose a plan for conservation, for increased production within our own country, for alternative fuels in order to develop independence on energy for this Nation. I said that if we did not do that, that we were going to be in just the kind of situation we are in today. I can recall I finally received 41 votes for it, but I had the adamant opposition of the administration at that time.

What have we seen happen in the last 3 years? We have seen restrictions on cars, to get better gasoline mileage, reduced. We have seen in the last 8 years a situation where when we had temperature controls for Federal buildings, to try to force greater conservation in both winter and summer, we have seen those lessened. We have turned away from some of the practices that would have continued to build further independence for us in this country. We have tried time and time again to put further incentives in to try to encourage drilling for oil and gas in our country and have not been able to accomplish it to the extent that it is absolutely necessary.

What we have seen today is an increase in the price of oil, and an increase in the price of gas. In the short run, they help the energy industry in this country, but in the long run, it is a very dangerous situation for our country.

This kind of an increase and what will become a controlled price increase in the Middle East by President Saddam Hussein will be one that will tip this country toward increasing inflation, will tip this country toward the depth of a recession, and will add very much to decline in the standard of living of our people.

His greatest vulnerability is that he is heavily in debt and he must have cash and he must have income. What we must have is a coordinated boycott for all of his products in order to bring him to heel.

Mr. HELMS. Before yielding to the Senator from New Mexico, let me thank the Senator from Texas and the able Senator from Idaho [Mr. McCLURE]. You have counseled this Senate well. I, for one, appreciate what you have said. I appreciate what Senator COHEN has said, and if we do not learn from this episode, we are dumb.

I yield the remainder of my time to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time do I have, Mr. President?

The PRESIDING OFFICER. Two minutes 18 seconds.

Mr. DOMENICI. Mr. President, I agree with the distinguished Senator from Texas, the United States should learn from this incident with reference to our growing energy dependence. Obviously, 10 years ago, we were worried about the fact that we were importing so much oil. We have now forgotten about all that. I am hopeful that we will be reminded of it because of what is occurring in the Middle East, and, Mr. President, the fact that we might be once again hostage to someone who will cause the price of oil to increase such that it will sap our economy dry.

Obviously, tonight we are here to support the President of the United States and to urge all our friends in the world to support him and us in an effort to see to it that the actions

which we have seen last night and today are reversed and that Hussein is forced to change his way of doing business.

We now have one man with a huge army sitting in the middle of 50 percent of the world's oil, and he has put himself there by force. Obviously, if we do not build up the strength and the vigor of those other countries that are now at his mercy, they are going to either capitulate, or he will see to it that either directly or indirectly he controls them.

Much has been said about the kind of person that he is, and I will not repeat that because everyone knows what kind of person we are dealing with. But I am hopeful that we will not let this man with that tremendous army dictate the future of the U.S. economy and of the free world's economy. He might do that if we do not put an end to his kind of tyranny.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired under the control of the Senator from North Carolina.

The Senator from Rhode Island has 3 minutes remaining.

Mr. PELL. Mr. President, I ask unanimous consent that Senators BREAUX, SASSER, and INOUYE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield 1 minute to my colleague from Rhode Island.

Mr. HELMS. Mr. President, I ask unanimous consent to add Senator SIMPSON and Senator DOMENICI as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I want to thank my colleague.

First of all, we all acknowledge that Saddam Hussein is a crafty and a dangerous individual. The threat to Saudi Arabia, of course, is now the next great danger point that is showing up in that area.

This resolution, I hope everybody will take note of, concentrates on multilateral actions. This is the direction that the President is leading us. I do hope that we can enlist the support of those other nations that have interest in that area.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. We, in the United States, are required to do our part, but it must be a multinational effort.

I thank the Senator.

Mr. PELL. Mr. President, I yield 1 minute to the Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, it is clear from the debate there have been two policies pursued. One is a policy of appeasement; we thought we could purchase peace through weakness. The second policy is one of obscene energy consumption. It seems to me the Senator from Texas has said it just right, that we have not had an energy policy. We have abdicated on tax credits for energy conservation. We have gone back to 65 miles an hour plus on our highways. We have big cars back, bigger and better and faster and more consumptive than ever, and through this policy, or nonpolicy, on energy conservation we have allowed Saddam Hussein to put us on the cruel rack of extortion.

Mr. SIMPSON. Mr. President I, too, am pleased to be a cosponsor of this resolution which condemns Iraq's invasion of Kuwait, commends our fine Commander in Chief's trade embargo on that country, and urges the President to seek, through multilateral action, international sanctions against Iraq.

After visting Saddam Hussein in April with my colleagues, our fine Republican leader, Senator DOLE, Senator MCCLURE, Senator METZENBAUM, and Senator MURKOWSKI—in debate soon after that event I was one of many who came to the floor and urged a cautious, noninflammatory policy toward Iraq. We gave Hussein the benefit of believing his assertions that he desperately wanted his country to be accepted in the family of nations; that he did not seek to gain military advantage over his neighbors; and that he sought improved relations with our country. So much for those promises.

Iraq's actions in the past few days have proved the total falseness of all of the assertions which he made to our delegation. He is a liar and a fraud—and a rabid marauder in every sense of the word.

I commend the leadership of our great President. He has responded in a steadied, calm, and just manner, as he has to all other crises with which he has been faced using the measured response required under all of the circumstances. At this stage, we should leave this sensitive matter in the able hands of our President and his capable advisers, and express to him, as this resolution clearly does—our complete support and confidence in his present actions.

Mr. DURENBERGER. Mr. President, I join my colleagues in supporting this resolution condemning the raw barbarism and terror of the Iraqi invasion of Kuwait. There are few words available to express the total outrage and anger that we feel toward the brutal Iraqi regime.

There can no longer be any doubt about the profound danger that Saddam Hussein presents to the entire region. His actions have become unpredictable. Two days ago, even the most informed analysts of Iraqi affairs would not have predicted that Iraq would actually invade Kuwait. Saber rattling in the extreme? Yes. But no one seemed to believe that he would act in this way.

To a rational mind, it would seem inconceivable that Saddam could turn next against Saudi Arabia or Syria or Jordan. But now, no one can be certain of that. Saddam is such a threat precisely because he has so much military power and a demonstrated willingness to use it. And it has become difficult to predict where he will use it next.

Many of my colleagues and I have expressed deep anger at the Iraqi actions. I agree that we must take action against Iraq. I fully support the economic and other actions that President Bush announced this morning. I have confidence in President Bush's ability to lead this country's response to Iraq. We must pursue these actions with vigor, and encourage our friends and allies to join us.

I deeply regret and forcefully condemn the Iraqi invasion. It is my hope that Iraq will withdraw completely from Kuwait and permit the legitimate government of that country to return to power. I must confess some pessimism, however, at this prospect. It doesn't appear that Kuwait will soon regain its freedom.

But the United States must remain firmly committed to responding as strongly and persistently as possible. I support the resolution.

Mr. BOSCHWITZ. Mr. President, Iraq's invasion of Kuwait is contemptible. It deserves—and is receiving—condemnation in the strongest terms. The response to the invasion of Kuwait demands concerted, multilateral action on the part of the United States and our allies. Iraq's irresponsible action must have costly consequences for it. The President's call for a multilateral response against Iraq is entirely correct and I strongly support him.

Anything less than such a response would encourage Saddam Hussein to continue on his irresponsible and dangerous course. We should be telling our NATO allies and Japan that we expect them to join us in imposing penalties against Iraq. Its brazen attack on small and virtually defenseless Kuwait is simply unacceptable.

Both the President and the United Nations Security Council have already condemned the invasion and I commend them for their quick and forceful responses. The Senate will also go on record shortly to condemn Iraq's indefensible and dangerous action.

Iraq's attack has serious consequences for the United States. We purchase hundreds of thousands of barrels of Iraqi oil each day. Presumably, we will now have to find alternate sources of supply. Other nations in the Persian Gulf may now find themselves under similar threats to do Saddam Hussein's bidding or face attack. As a

result, we may be called upon to provide them with military assistance. We should examine such requests sympathetically.

Saddam Hussein's aims are twofold—to force the world to pay higher prices for oil even if he has to use force to do so and to become the strongest voice in OPEC. He has demonstrated by his own actions that he can not be dealt with by normal methods. Last week, the Senate overwhelmingly voted to bar any new financial credits for Iraq and to provide no financial assistance to it. The House has also voted punitive action against Iraq. This morning, the President froze Iraq's assets in this country.

The United States is doing its part to respond to Iraq's recklessness. It's time for other nations to do theirs.

Mr. PELL. Mr. President, I would like to point out that this resolution is not a Gulf of Tonkin resolution. It does not authorize unilateral U.S. military actions, rather it calls for the President to use the chapter 7, article 41 and 42 procedures of the U.N. Charter for multilateral action.

In accordance with the charter, use of force can be authorized by a two-thirds vote of the Security Council including the concurrence of all five permanent members including, of course, the United States. The chapter 7 procedures were conceived as a means of deterring and defeating aggression through the collective action of the world community. They were intended precisely to deal with the kind of aggression we have seen from Iraq against Kuwait. I would point out the charter is a treaty to which the U.S. Senate has given its consent and which is the supreme law of our land. Should the United States participate in any multilateral force it would have to be carried out consistent with our constitutional processes. I would note that in recent years U.S. military forces have not participated in U.N. military actions although this could change should there be a U.N. military collective security action against Iraq.

Mr. KOHL. Mr. President, this resolution, as strongly worded as it is, expresses only part of the disgust we all feel for Iraq's invasion of Kuwait and the disdain we all have for Iraq's behavior in general.

There is no excuse, there is no justification, for what Iraq has done. And there is no reason for the United States to show restraint in expressing its displeasure. Too often in the past our Government has refused to take action against Iraq. Some have argued that if we respond patiently to their brutality, surely Iraq would modify its behavior. We have; they haven't. And the time for tolerance has long since passed.

President Bush has responded appropriately to this latest unprovoked attack. And he has indicated that he will consider additional responses, including military responses, to express our disgust and protect our national interests in the region. That, Mr. President, is appropriate. Given Iraq's history of military adventurism and its use of chemical weapons and its disregard for basic human values, we have no choice but to respond forcefully and clearly.

I would simply suggest that our response ought not be unilateral and ought not focus on just punishing Iraq. Here at home, we have to develop a national energy policy so that we are not as dependent on imported oil. Regionally, we have to help Israel and her Arab neighbors realize that their interests require a meaningful peace between them so that they can respond to the real threats they face which come from terrorist states like Iraq. Internationally, we have to demonstrate that America is ready to work with other states, including the Soviet Union, to respond to any and all threats to world order and peace. And we have to take whatever action is required to make sure that our allies—that all nations—join in that effort.

Mr. President, this resolution is a rhetorical reaction to Iraq. But we have to have more than rhetoric; we have to have concrete plans to deal with Iraq. And that means we have to be willing to impose sanctions and cut off trade and take other steps even if they impose some pain on us. By now we should have learned that the sort of pain we willingly decide to impose upon ourselves is mild compared to the agony that will be created if we allow Iraq to continue in the future as it has in the past.

Mr. BIDEN. Mr. President, in his inaugural address, President Bush said that the "day of the dictator is over." Today, sadly, we were reminded that this day has not yet arrived.

The world's most belligerent dictator, Saddam Hussein, has, without provocation and under a contrived pretext, invaded the sovereign nation of Kuwait.

Hussein's action poses a challenge to all civilized nations of the world. It poses a threat to stability in the Middle East, the world's most unstable region. And it poses a direct threat to American interests.

For too long, we have danced with this dictator, pretending he was something that he was not, that he was someone we could deal with. I hope we have learned our lesson.

Two years ago, after Hussein gassed the Kurdish minority in Iraq—an act that can only be labeled genocide—the chairman and ranking member of the Foreign Relations Committee proposed mild sanctions against Iraq, a proposal which easily passed the Senate. Unfortunately, the Reagan administration and the other body opposed these sanctions, which died in the final days of the 100th Congress.

In recent months, as Hussein has bullied his neighbors in the Middle East and boldly continued his drive for nuclear weapons and other weapons of mass destruction, we have twiddled our thumbs, fearful of upsetting this madman. Indeed, we have even subsidized his purchase of our commodities and manufactured goods, which freed up other resources to pursue the high-technology weapons that he covets.

Mr. President, the time for our silence has ended. The world has stood by for too long. We must act, and we must act forcefully.

I commend President Bush for the Executive order he issued today, which imposes a total economic embargo on Iraq. And I commend him for seeking an emergency meeting of the United Nations Security Council, which unanimously condemned the belligerent invasion by Iraq.

But we must do more. We must seek concerted action by all the civilized nations of the world. The Soviet Union, according to news reports, has already decided to end its arms shipments to Iraq. Surely we can ask our allies to do the same.

The resolution that we have introduced urges the President to seek collective international sanctions against Iraq. We must pay particular attention to stopping—on a multilateral basis—any assistance that could contribute to Hussein's efforts to develop ballistic missile technology, or his goal of acquiring nuclear weapons.

This means getting many of our closest allies—in Europe and in this hemisphere—to end their cooperation with Iraqi high-technology weapons programs.

This means appealing to the nations of central and Eastern Europe, as well as the Soviet Union, to begin to play a constructive role in the Middle East, where for years they have been a thorn in the side of the United States.

And it means a vigorous diplomatic effort, on all fronts, to isolate Saddam Hussein and tell him that he must pay the price for his belligerence.

Mr. President, the world has changed, changed utterly. Unfortunately, the Middle East remains, in the words of one Israeli official, "a dangerous neighborhood." History will not forgive us if we do not do everything in our power to stop Saddam Hussein, who poses such a dangerous threat to stability in the region and to international order.

Mr. LAUTENBERG. Mr. President, I rise to express my revulsion, anger, and alarm at the Iraqi invasion of Kuwait last night, and to support this Senate resolution calling for a total economic blockade of Iraq, which I have cosponsored.

While this administration was talking kinder and gentler to Iraq, and refusing to take action against it, Saddam Hussein has been acting crueler and tougher to his neighbors and to his own people.

He has been relentless in his efforts to acquire chemical, biological, and nuclear weapons in violation of various international treaties. He has used chemical weapons against his own people with impunity, causing the deaths of thousands upon thousands of Iraqi Kurds. He has threatened to scorch half of Israel with binary chemical weapons.

He invaded Iran, starting a long and futile war that caused untold misery to his people, and leaving them billions of dollars in debt. He has tortured Iraqi children mercilessly to punish their parents. Finally, his policy of contempt for his people and his neighbors has culminated in his invasion of Kuwait.

There can be no remaining doubt about Hussein's aggressive intentions, or his willingness to use force to achieve his boldest aims. The only question is how far he can go before we draw a line in the sand.

Iraqi forces crossed the Kuwait border at 2 a.m. last night, less than 24 hours after talks to resolve disputes over an oil-rich border region and over Iraqi demands for financial concessions from Kuwait broke down.

Saddam Hussein invaded his smaller, weaker neighbor after assuring Egypt he would not. He invaded despite the fact that Kuwait bankrolled his war with Iran to the tune of billions of dollars in interest free loans. He invaded despite the fact that he got what he had demanded earlier—a price rise of $3 a barrel from OPEC. In one move, he demonstrated not only his naked lust for power, but his amazing ability to be an ingrate, a liar, and bully all at once.

It is not surprising that Hussein has little use for negotiation to resolve his disputes. If he cannot get what he wants across the negotiating table, he does so across the barrel of a gun. Until now, no one has been willing or able to stand up to him.

With his latest move, Saddam Hussein has confirmed once again that he and his country are a serious menace not only to Kuwait and the Middle East, but to the West and to the entire civilized world. He threatens our oil supply. And he threatens our ability to keep peace in the world.

President Bush finally gave up his misplaced hope that we could actually reason with a madman like Hussein and decided to impose sanctions. But Kuwait is paying the price for his failure to take action sooner. The President's optimistic view of this tyrant emboldened Saddam Hussein into thinking that we would continue to acquiesce in his increasing bold grabs for power. Saddam Hussein is ruthless and cunning and is beyond reason. He only understands the language of power.

The administration finally condemned Iraq's invasion as "naked aggression," froze all Iraqi assets in the United States, and blocked all trade with Iraq.

That is a beginning. Better late than never. But we must make it clear that we will seriously consider using every weapon at our disposal—diplomatic, economic, and yes, even military—to stop Saddam Hussein's grab for power dead in its tracks. For Hussein's actions directly threaten America's supply of oil, and pose grave dangers to U.S. allies in the Middle East.

For the moment, we must use aggressive diplomacy to persuade the rest of the world to impose a full economic blockade against Iraq. The power of sanctions is greatest if the civilized world joins in to make Iraq an economic pariah. Iraq should be put on notice that unless its troops are withdrawn from Kuwait, we will freeze Iraq out of trade and commerce with the rest of the world.

Iraq's two biggest arms suppliers are the Soviet Union and France. They must immediately halt all arms sales to Iraq. Its biggest trading partners include the Soviet Union, France, Italy, Japan, Turkey, and West Germany. They should cut off trade with Iraq and squeeze it dry.

The countries of the Middle East must use their economic and political clout to force Iraq to pull its troops out of Kuwait.

Iraq's actions are thuggery, plain and simple. We must make our best effort to see that our allies not only join the chorus of condemnation emanating from our country, but also put their money where their mouth is.

The invasion is a chilling indication that Saddam Hussein will stop at nothing to achieve his goals. Today, this tyrant is content with Kuwait. But tomorrow, who knows? Perhaps Saudi Arabia. We must make sure we take swift and strong action to make sure we never have to find out.

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute remaining.

Mr. PELL. I yield that 1 minute to the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I am happy to join as cosponsor of this amendment. The sad lessons of the last 2 days are two, I think. One, as we begin beating swords into plowshares, it is important to remember that sometimes we need swords. I am grateful we have them today.

Second, it is not good or wise for the greatest and most powerful Nation in the world to be 50-percent dependent on imported oil. We need incentives to get on with the job of producing oil at home to turn the wheels of industry and agriculture.

I yield back the remainder of my time.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 seconds remaining.

Mr. HELMS. I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the resolution. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—97

Adams	Fowler	McClure
Akaka	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wirth
Exon	Mack	
Ford	McCain	

NAYS—0

NOT VOTING—3

Armstrong	Pryor	Wilson

So the resolution (S. Res. 318) was agreed to; as follows:

S. RES. 318

Whereas Iraq during the 1980's, under the leadership of Saddam Hussein, has demonstrated a blatant disregard for international law and all standards of human decency, building a heinous record of atrocity and carnage;

Whereas in 1980 Iraq's invasion of Iran began the Iran-Iraq war, which became one of history's bloodiest;

Whereas, beginning in 1983, Iraq initiated and made extensive use of chemical weapons in the Iran-Iraq war;

Whereas this chemical slaughter constituted the most significant violation of the Geneva Protocol in the 65-year history of that international treaty, to which Iraq is a party;

Whereas Iraq's use of chemical weapons culminated in 1988 in a massive attack on its own Kurdish minority, causing tens of thousands of deaths and more than 65,000 refugees;

Whereas Iraq may be proceeding to develop biological weapons in violation of the 1972 international convention prohibiting the manufacture or possession of such weapons;

Whereas Iraq has continued illegal efforts to acquire nuclear weapons technology in violation of United States export laws and Iraq's obligations under the Nuclear Non-Proliferation Treaty;

Whereas the Iraqi effort to develop an indigenous ballistic missile capability represents an additional dimension of Iraq's threat to the Persian Gulf region;

Whereas, domestically, Iraq's human rights record is one of continuing barbarism, characterized by arbitrary imprisonment, government-sanctioned murder, and even the torture, mutilation, and killing of children as a means of terror against their parents;

Whereas Iraq's efforts to eradicate Kurds and depopulate the Kurdish regions of Iraq are tantamount to a policy of genocide;

Whereas Iraq stands in flagrant violation of its obligations under the United Nations Charter and the International Covenant on Civil and Political Rights;

Whereas, in 1988, in response to Iraq's use of chemical weapons against the Kurds, the United States Senate on three occasions passed legislation imposing comprehensive sanctions against Iraq;

Whereas, on July 27 this year, the Senate passed the Iraq International Law Compliance Act in a continuing effort to secure Iraq compliance with the rule of law;

Whereas in recent days Iraq mobilized forces on its border with Kuwait, issuing a series of bellicose threats, aimed not only at Kuwait but also at Israel and the United Arab Emirates;

Whereas Iraq, on August 1, without provocation and under contrived pretense, invaded the sovereign nation of Kuwait, seizing control of its capital and all national territory;

Whereas the President, on August 2, issued an executive order freezing Iraqi and Kuwaiti assets in the United States, and embargoing all trade with Iraq;

Whereas Iraq's military power in the Persian Gulf area is virtually unchallenged, and its record of callous brutality, opportunism, and belligerency demonstrates that no policy of appeasement or cooperation will constrain the threat Iraq now poses to the security of nations throughout the entire Persian Gulf region and to the international order; Now, therefore, be it

Resolved, That Congress commends the President for his initial actions and urges the President to act immediately, using unilateral and multilateral measures, to seek the full and unconditional withdrawal of all Iraqi forces from Kuwaiti territory; and, specifically, to:

(1) Proceed to enforce against Iraq, unilaterally, all provisions of United States law, including the International Emergency Economic Powers Act, to impose—

(a) sanctions against a country engaged in a consistent pattern of gross violations of internationally recognized human rights,

(b) a sustained freeze of all Iraqi assets, and

(c) a sustained ban on any export of United States goods and services to Iraq; and

(2) Undertake, multilaterally, a concerted diplomatic effort, through the United Nations Security Council and all other available channels, to achieve collective international sanctions against Iraq, to include—

(a) a cessation of all arms shipments and all transfer of military technology to Iraq, with emphasis on—

(i) all Soviet-supplied arms and spare parts, as promised by the Soviet Union immediately after Iraq's invasion;

(ii) all arms and spare parts supplied by other major suppliers; and

(iii) all material and technical assistance from any source that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons;

(b) a cessation of trade with Iraq and a worldwide freeze on Iraqi and Kuwaiti assets;

(c) a suspension of all economic development activities within Iraq, with emphasis on—

(i) oil development activities; and

(ii) construction and other projects supported by American, European, and Japanese industry;

(d) the imposition, under Article 41 of the United Nations Charter, a full economic blockade against Iraq; and

(e) if such measures prove inadequate to secure Iraq's withdrawal from Kuwait, additional multilateral actions, under Article 42 of the United Nations Charter, involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

Mr. HELMS. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I rise in support of the Defense authorization bill for fiscal year 1991.

Mr. President, I chair the Projection Forces and Regional Defense Subcommittee of the Armed Services Committee. This subcommittee is responsible for oversight of military missions of defense of Southwest Asia and other regions where the United States does not maintain substantial forces deployed in peacetime. The subcommittee is responsible for those budget elements of research and development and procurement related to these missions, including shipbuilding and conversion—except trident—naval aviation—excluding carrier-based aircraft—Marine Corps, airlift and sealift, and special operations.

Mr. President, let me describe briefly the major facets of this bill that directly relate to the Projection Forces Subcommittee's recommendations. The subcommittee looked critically at programs entering production to see whether the Defense Department was applying the "fly before buy" concept. There has always been a strong rationale for ensuring adequate testing before moving weapons from development to production. But the developments in Eastern Europe and the Soviet Union over the past year have greatly strengthened this approach by reducing the need to rush new weapons to the field to meet a growing threat. The bill contains three major recommendations that implement a strong "fly before buy" policy.

First, the committee believes that the C-17 cargo aircraft plane should be given time for the testing program to catch up to production. The members are committed to improving airlift and sealift capability, but the slip in the C-17 program and the lack of performance to date do not warrant providing production aircraft in fiscal year 1991.

Second, the committee recommends deferring production of the Navy's new *Seaworld* (SSN-21) class submarine and buying two improved *Los Angeles* (SSN-688) class submarines instead. The SSN-21 program could benefit from having additional time to proceed on the ship design and to develop and test the new BSY-2 combat system.

Third, the committee has recommended adding funds to the request to support V-22 tilt rotor aircraft research and development. I know that a number of my colleagues will be disappointed that the committee did not go further and also add production funds for the V-22. However, although the Institute for Defense Analysis study on the V-22 indicate that the V-22 has the potential to be an effective replacement for the Marine Corps' CH-46 helicopter fleet, the study's conclusions depend upon assumptions in the study that need to be verified in operational testing. It would be premature to commit to procurement before we have answers to the question of whether these assumptions are valid.

Another important priority of the subcommittee was to promote programs that would maintain our technological superiority. There are several noteworthy initiatives in this bill that will help the United States maintain its technological edge:

The committee again this year proposes to fund development of integrated electric drive for surface ships. This is an exciting technology that could permit major advancements in both propulsion and in weapons systems available for future Navy combatants.

Another initiative is funding the advanced submarine technology program that is providing major technology opportunities for application to current and future classes of submarines. It is vitally important that we maintain our edge in submarine warfare, and this program will help us achieve that goal.

One final development program I should mention is the Sea Lance weapon program. The administration's amended request would have canceled this program in fiscal year 1991, despite the fact that the Navy's operational requirement is still valid, the development testing has been very encouraging, and there is no other system that will meet the requirement. We must provide our submarines and surface ships with a weapon that will meet the threat posed by submarines with weapons whose ranges exceed that of our current torpedo systems alone. Therefore, the committee is recommending that the Navy continue this important development program.

Mr. President, this bill is a responsible approach to restructuring the Defense Department's budget, based on a new assessment of the threat, a revised strategy for meeting that threat within reasonable funding levels, and a thoughtful approach to funding priorities. I urge the Senate to support the Defense authorization bill for fiscal year 1991.

THE FISCAL YEAR 1991 DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. KOHL. Mr. President, I was recently told a story by a colleague that sums up many of my own attitudes and convictions at this moment of historic transition. He reported meeting a Member of the Soviet Parliament, just a few weeks ago, passing through Washington on his way west. This older Russian, a patriot and nationalist wounded in past wars, said he was on his way to California. When asked why, he said the purpose of his trip was to visit Ronald Reagan in order to thank him for perestroika.

My colleague, a bit perplexed, asked for him to explain. It was because of SDI and the Stealth bomber, he said, that his nation discovered it could not win a race of military technology and power. It was because of our strength and innovation, he explained, that compromise has replaced confrontation.

For 45 years America has faced the challenges of potential war. It has raised a shield of sophisticated weapons to defend against an armed and resolute aggression. It has spent the coin of its treasury and the blood of young soldiers to check an advancing tyranny.

In these decades of struggle, we refused to be blackmailed by threats or seduced by promises. Administrations, both Republican and Democratic, defended our commitments and maintained our strength. It was their resolution and preparation that forced the changes that we see.

Today we have found the promise of peace—in Franklin Roosevelt's phrase, "the peace of overwhelming victory." For decades we faced and mastered the stern disciplines of war. Now we accept the challenges of peaceful transition.

As the threat of crossing swords in Europe recedes, and as the United States adjusts its defense, it is clear that fewer defense dollars will be necessary. It is equally clear the United States remains a global power with global responsibilities.

Mr. President, it is at this extraordinary moment that we set out to discuss the defense authorization bill reported by the Senate Armed Services Committee. While U.S. defense spending has been declining for over 5 years, the fiscal year 1991 budget represents the first installment in what promises to be a series of truly drastic cuts in defense spending. Our challenge is threefold. We must preserve the technology and strength that continues to pressure reform and defend freedom. We must recognize the reality of a changing military threat. And we must respect the boundaries of a budget in crisis.

Given the difficulty of managing this mandate, I believe that the bill before us is balanced in most respects. While I cannot support each provision of this legislation, I supported a favorable report in committee, and now I support its final passage.

I hope to comment on several specific items in the bill itself, but before I begin I want to make several general points and recommendations concerning U.S. military planning.

THE CHANGING CONTEXT OF U.S. MILITARY PLANNING

The accelerating pace of change in Eastern Europe and the Soviet Union, and mounting pressures in the United States and Western Europe to reduce defense spending, have thrown United States defense planning into a state of confusion. On the one hand, trends in the Soviet Union and Eastern Europe have substantially reduced the military threat facing the United States and its allies. At the same time, however, the shape of the emerging international order remains uncertain. As the United States deliberates new defense priorities for the 1990's we face a generation of new hopes and new threats.

The temptation is to remain still, waiting for ambiguities to fade, or to race forward, blind to dangers ahead. Neither approach is appropriate for a power with global responsibilities. It is precisely at such historical junctures that competent and creative policy making is essential, but enthusiasm for change should not come at the expense of prudent planning.

Unfortunately, many in the West, including some responsible policymakers, feel that the usefulness of our strength has ended—that peace can be ensured through the words we use, separated from the power that once proved our conviction. This kind of rootless hope confuses cause and effect. Changes are taking place in Eastern Europe and the Soviet Union largely because the United States and NATO have been strong and united. The simple truth is clear—the American policy of peace through strength has been successful. The Soviet Union has allowed reform to occur within its sphere of influence because of mounting and converging pressures—domestic economic and political decline, forcing the Soviet leadership to confront internal contradictions, and external pressures generated by a strong and cohesive NATO alliance. To prematurely dismantle Western military strength might actually lessen the pressure on the Soviets to continue their reforms. Paradoxically, the process of positive change could be slowed or reversed.

We must dismantle cold war antagonisms, just as we dismantled the bricks of walls that once divided us. But the curious belief that we help promote political freedom and military reform in the Soviet bloc by unilaterally disarming, precipitously cutting defense spending or providing the Soviet Union with massive financial relief is to hope against hope.

It is true that the European military threat is changing, almost certainly for the better. The Warsaw Pact has collapsed in all but name, and it is unlikely that the Soviet Union could ever rely on its former east European allies to mount a military attack on Western Europe. But it is also true that the Soviets themselves retain strong and aggressive conventional and nuclear capabilities, far in excess of what is required to defend Soviet territory.

Despite widespread agreement on the need to maintain NATO, at least for the near future, many Western policymakers and commentators seem willing to change the way we judge the adequacy of United States and NATO forces. Military planning has traditionally been based on an objective assessment of the military strengths of likely opponents, rather than on their stated intentions. Abandoning this standard would be a serious mistake. We should continue to base our military planning on what we see, not what we hear.

The pace and nature of change in Soviet military capabilities continues to be ambiguous. Even though the Warsaw Pact has collapsed as an integrated fighting unit, the Soviets themselves maintain the largest and most modern land army in the world. It is a nation that continues, in 1990, to

produce almost 3 times as many tanks and 10 times as many armored personnel carriers and self-propelled artillery pieces as does the United States.

In the case of Soviet strategic nuclear forces the news is even less encouraging. As the Armed Services Committee report notes:

> The Soviet Union has continued with a vigorous and broad-based strategic offensive and defensive modernization effort that is improving its overall capabilities, including the deployment of two mobile ICBMs.

The SS-25 is a single warhead, road-mobile system and the SS-24 is a 10-warhead, rail-mobile system similar to the U.S. Peacekeeper rail garrison concept. Of even greater concern is the ongoing modernization of the SS-18 ICBM force, the most threatening system in the Soviet inventory. The SS-18 MOD 5 is effectively a brand-new ICBM. Deployment of this system, with its improved accuracy and throw-weight, will significantly undercut the benefits of reducing the SS-18 force through a START treaty. The Senate should also not overlook the ongoing modernization of the Soviet strategic nuclear submarine and bomber forces.

There thus remains a significant gap between Soviet words and deeds, regardless of the dramatic changes taking place in Eastern Europe. This has complicated the process of assessing Soviet motives and intentions. And this ambiguity alone should be sufficient reason to retain Soviet capabilities as our primary test for judging United States and NATO defense requirements.

With this in mind, it is particularly disturbing to hear emotional cries in the west to drastically cut the U.S. defense budget. Unnecessary and excessive Federal spending is never justified, but I fear that in an attempt to reduce the budget deficit and reap a peace dividend we run the risk of discarding proven strategies in setting our defense priorities. In addition, a hurried and thoughtless transition has the potential of causing severe economic and social disruption as we rush to eliminate military bases and personnel and force defense contractors into civilian production.

This does not mean that U.S. defense spending should remain at current levels. In my view, the cuts contained in the Defense authorization bill, as reported by the Senate Armed Services Committee, are about as deep as we can prudently go at this point. The bill embodies a considerable reduction in the Bush administration's original fiscal year 1991 request, a cut of almost $18 billion.

If real savings are to be gained without risking Western security, a careful and thoughtful approach to setting U.S. military requirements and managing scarce defense dollars will be needed. We cannot wield our budget axe wearing a blindfold. It is vital for the United States to manage cuts in military spending in ways that multiply the return on our defense investments. Restructuring our military posture is one thing. Reducing the effectiveness of our forces is another.

Having outlined these general principles, let me turn to some more specific comments on the Defense authorization bill.

MINIMIZING THE ADVERSE EFFECTS OF SHARPLY REDUCED DEFENSE SPENDING

As the U.S. Government reduces the amount of resources we spend on defense, we must take care that these cuts do not cause unnecessary social and economic damage. We must consider families, jobs, the industrial base, U.S. competitiveness and the overall state of the U.S. economy.

At the budget levels contained in the Defense authorization bill before us, the committee was forced to reduce active duty manpower by 100,000 and DOD civilian personnel by approximately 60,000 from the fiscal year 1990 level. These numbers are substantial, but manageable. Defense budget cuts below this level, however, will depress the personnel ceiling beyond a critical point. The result, I believe, will be dislocation and demoralization within each of the military services. Since the personnel and readiness elements of the DOD budget represents the overwhelming majority of defense outlays each year, additional defense budget reductions may require further cuts in personnel and signal the return of a truly hollow military. It would be ironic, after a decade of investment and hard work, if we were to throw away our gains with so little thought.

Cutting large procurement programs, along with research and development, reduces defense spending only slightly in any given year. Further reductions in the fiscal year 1991 Defense budget are likely to fall on personnel instead. For those Senators who have not yet done so, I recommend that you examine the option considered by the Armed Services Committee for deeper outlay reductions in Defense spending for fiscal year 1991, printed in the committee report. It is disturbing reading.

As difficult as managing cuts in military personnel will be, limiting the economic impact of a shrinking defense industry will be equally challenging. Some seem willing to turn their backs on U.S. defense industries. But this is not only unfair, it is a threat to American security and economic health. The United States will require a healthy defense industry for the foreseeable future to shoulder the burdens it will be asked to bear.

I am pleased that the authorization bill reported by the Armed Services Committee does, to a large degree, take this economic impact into account. For example, I strongly support the committee's remanufacturing initiative for the M1 tank. This provision recognizes that if tank production ceases, a highly specialized industrial sector will simply disappear—one which will cost billions of dollars to restore when needed in the future. This measure not only saves tens of thousands of jobs and supports a critical industry, it also modernizes the existing tank fleet.

This leads me to a final observation on the potential problems of our defense builddown. In my view, we must take every effort to protect U.S. technological competitiveness as we reduce defense spending. As our military forces become smaller in number, they must rely more heavily on advantages in quality. Technological innovation has always been a great strength of the U.S. defense establishment, and I am convinced that, for this reason, we can retain a high degree of security while reducing the overall size of our military forces. This principle has been effectively applied by the Armed Services Committee in the case of the M1 tank upgrade program, and it should also be extended to a broad range of other procurement and R&D programs.

The need to proceed with the V-22 *Osprey* tiltrotor aircraft clearly falls into this category. In its markup of the Defense authorization bill the Armed Services Committee included $238 million for research and development in fiscal year 1991 for the V-22. While I would have preferred to include funds for advanced procurement as well, I am confident that our action represents the first step toward fully restoring the V-22 program. I should note that this aircraft not only represents revolutionary military technology for the Marine Corps, it has broad military and civilian applications and is precisely the type of multipurpose technology that the Congress needs to support.

Low observable or stealth technology is another category that deserves our favor. The B-2 bomber, the advanced tactical fighter [AFT] and the Navy's A-12 attack aircraft all embody this revolutionary technology. These programs not only satisfy military requirements for the near term, they also represent an important technological bridge to the future of U.S. military aviation. Of course, these programs must pass the same hurdles that any conventional aircraft would be expected to—such as cost and operational effectiveness—but we must take into account the revolutionary nature of this technology.

During the markup of the Defense authorization bill, the Armed Services Committee made every effort to protect research and development and our technology base. I fear, however, that additional cuts in the fiscal 1991 De-

fense budget will force excessive reductions in both of these categories as well. Marginal savings today could easily contribute to a significant erosion in the U.S. technology of the future. This is another reason to support the budget authority and outlay limits contained in this bill.

MAINTAINING DETERRENCE AT LOWER LEVELS

I believe that the justifications for modernizing U.S. strategic forces remain compelling. If strategic deterrence is allowed to erode, all the other weaknesses and inadequacies in our military position will be magnified, and it will be all the more difficult to obtain fair and stabilizing arms control agreements. A logical approach to reducing defense spending and restructuring our military forces can only take place under the umbrella of a strong and modern strategic deterrent.

I am pleased that the Defense authorization bill reaffirms the Armed Services Committee's commitment to modernizing our triad of strategic nuclear forces. While I support balanced reductions in nuclear forces through strategic arms control negotiations with the Soviet Union, I also believe that the United States will require a strong deterrent in the foreseeable future. In a post-START environment we will have a significantly smaller land- and sea-based deterrent force. We must ensure that it is also modern and survivable. The B–2 bomber, our ICBM programs, and the Trident submarine force are all critical elements of this modernization effort.

But even this is not enough for the kind of deterrence and stability we will need in the 1990's and beyond. I fear that the Armed Services Committee's $972 million reduction in the administration's request for the strategic defense initiative is a serious mistake. As we move to reduce reliance on strategic nuclear forces, deterrence can be sustained and strengthened by placing greater emphasis on strategic defenses. Unfortunately, the Armed Services Committee's report seems to reflect the older thinking that deterrence is strictly a function of offensive nuclear forces. The committee seems to dismiss the deterrent value of strategic defenses, implying that SDI should proceed merely as a long-range R&D effort.

In discussing the likely effectiveness of SDI, the committee report seems to ignore the significant contribution to deterrence that partial defenses can make. Ironically, SDI seems to be held to a standard that has never been applied in evaluating the deterrent value of strategic nuclear forces—a near-perfect warfighting capability. In fact, a partial defense, including but not limited to the phase one SDI, can contribute significantly to deterrence by simply complicating the planning of any prospective attacker. Moreover, a limited defense will offer significant protection against accidental, unauthorized or terrorist ballistic missile attacks.

I must also express my strong opposition to the Armed Services Committee's decision to end the Milstar communications satellite. My views on this issue are expanded in the minority views of the Committee's report, but let me make a few basic points. The Milstar Program is a critical link in the U.S. Strategic Modernization Program. It makes little sense to dedicate a major effort to modernizing our strategic offensive forces and, at the same time to deny, the U.S. National Command survivable communications to those forces.

In addition, the Milstar Satellite Program is more than just a piece in the strategic nuclear chain of command. It would also be a critical part of our tactical communications network. While the Navy is the strongest supporter of the program for its tactical uses, Milstar is capable of supporting all land- and sea-based forces. This program has enjoyed broad bipartisan support in the Armed Services Committee and the full Senate. In my view it was a mistake to kill the program at this stage and I hope that the full Senate will reconsider this decision.

CONCLUSION

Mr. President, I am a supporter of S. 2884, as reported by the Senate Armed Services Committee. I believe that the committee chairman, Senator NUNN, and the ranking minority member, Senator WARNER, have done a commendable job in difficult times. With a few important modifications, I believe that the Defense authorization bill deserves the support of the Senate.

But I would conclude with a request and a warning. I urge my colleagues to resist the temptation to reduce the budget authority and outlays contained in this bill. Our cuts have been carefully weighed. National priorities have been carefully balanced. Further major reductions will be accompanied by economic suffering, social dislocation, and the prospect of future weakness. We must not go beyond what is prudent at this historic yet uncertain moment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senators will suspend conversations so Senator NUNN can be heard.

The Senator from Georgia.

Mr. NUNN. Mr. President, let me thank all of our colleagues for what I think has been a very productive day on the Defense bill. We have done 12 amendments, and some of them are the most important amendments that we will have on this bill. We have now a number of serious amendments left. I know they are all serious to the people proposing them. I refer to those that will be contested and will not be able to be accepted and which will require rollcall votes.

We have an atomic veterans amendment; a missile export amendment. There is indication that we can have a time agreement on both of those. There is a Wirth amendment on abortion coming up, I understand about 9 o'clock tomorrow morning. We understand there will be some kind of understanding about a cloture vote on that. We hope that is the case. There is a Kerry amendment on ASAT. He indicated he will be able to enter into a time agreement. A Bumpers amendment on battleships. I have not gotten an explicit time agreement. A Roth amendment on land transfers. I am not sure how long that will last. I do not anticipate a lot of time. A Bumpers amendment on base closure. A Dixon amendment on Korean fighter. Of course, the SDI amendment, which will take a considerable amount of time.

The long and short of it is, Mr. President, and to the leadership, I think there is every opportunity to complete this bill by the weekend and not have to come back here next week, if we get cooperation on the times on each one of these amendments. We have other amendments that are being accepted. We have a number of amendments that we have worked out and that can be accepted either tonight after we conclude the last vote or during the course of business tomorrow. There will probably be a number of others. I urge anyone who thinks they have an amendment that can be accepted to come over tomorrow morning.

We have, tonight, amendments we can handle before we go home, two Levin amendments that have been cleared on both sides, a McConnell-Ford amendment that has been cleared. We have a Warner amendment that has been cleared, a Lautenberg amendment that has been cleared, a Dixon amendment, Bradley, Hatch, and a Helms amendment, all of which have been cleared. We can do them tonight. If we do that, we will have finished some 20, 25 amendments today.

I guess what I am suggesting, Mr. Leader and Mr. President, is that I see a way to complete this bill, if we can work out something on an SDI timeframe sometime by the weekend, and not have to come back next week. I hope we can do that on the Democratic side. The Republican side already has a list of all the amendments. We think we have an indication, but we want everybody to give us, as soon as possible, the amendment and the content of that amendment so we can get a feel for it. If we are going to get out of here, we have to limit amendments at some point, and I hope we can do that.

Mr. WARNER. If the Senator will yield, there is a third category, not

only amendments which are contested and which will be cleared but, hopefully, the amendments which Senators no longer feel are important that they have to bring up. I am hopeful on my side that number will grow. As the minority leader said, he agrees with me 100 percent. We were talking about the third category of those amendments which Senators, in their judgment, now feel may not be necessary.

I yield to the majority leader.

Mr. MITCHELL. Mr. President, I direct my comments to my Democratic colleagues.

First, to all my colleagues, tomorrow morning, following disposition of the Wirth amendment, I will attempt to gain unanimous consent identifying the remaining amendments to the bill. Our Republican colleagues have already prepared and are working on their list. I ask any Democratic Senator who intends to offer an amendment to please notify the managers and staff of their intention.

As you make a decision on whether to notify them, I ask you to bear one thing in mind. If there are a lot of amendments, then we will surely be in session next week. If there are not a lot of amendments, we will be able to complete action on this bill prior to the weekend and leave for the August recess. Each Senator must take his own judgment, but I say to my colleagues, please keep that in mind as you decide whether or not you want to come in with one, two, three, or preferably no amendments.

I ask you to notify the managers this evening or first thing in the morning, because following the disposition of the Wirth amendment, a vote will occur at about 10 o'clock in the morning. That is, the disposition will occur at 10. We are going to seek an agreement to deal with that this evening, which will deal with that between 9 and 10 tomorrow morning, We will proceed with that, and I hope our colleagues on the Republican side, as I know they have started, will be able to work at reducing their list to enable us to complete action on this measure.

Mr. METZENBAUM. Will the leader yield? Will you tell us the situation with respect to the debt ceiling matter?

Mr. MITCHELL. We have been working all day in an effort to agree on the procedure for disposing of that in a manner that will permit us to move forward promptly. I have had many discussions with the distinguished Republican leader today and with many Senators who have an interest in that legislation. I hope to be able to have an announcement on that sometime tomorrow morning. It is our hope we will be able to dispose of it promptly in a manner so as not to interfere with completion of action and going into recess by this weekend.

Mr. METZENBAUM. Will the majority leader agree if there are going to be any special amendments accepted, that we all will be given adequate notice? Of course, if it is clean, then obviously there is not a particular reason to do that. But if there are particular amendments that are going to be accepted, I hope that we will be notified in advance before the unanimous-consent request.

Mr. MITCHELL. Not only will I be pleased to notify the Senator, I will be pleased to have a private consultation, exclusive consultation with him immediately following his colloquy.

I yield to the Republican leader.

Mr. DOLE. I want to underscore what the majority leader said. We have a number of amendments on our side—we have been working since last evening—not a large number for a defense authorization bill, but I think even some of those could probably stand not being brought up. I think we have had a number of Members decide instead of offering 10, they would only offer 2. That is very helpful. That shrinks the list quickly.

If there are some on our side, we want to look at amendments our staff told us they might want to bring up, maybe we can reduce that list and, hopefully, after the abortion matter is disposed of, there might be a chance to get an exclusive agreement on the number of the amendments to be offered on this bill.

On the other hand, those going to start on them tomorrow better be accommodating to not take very much time. Forty minutes plus a vote is an hour. If we get into these people taking 2 or 3 hours, why should somebody else give their amendment up? If there are going to be accommodations, it has to be all the way around, not others spend the whole day talking. Nobody will listen to them anyway.

So, it would be my hope that we could accommodate the managers and the leadership and we will try to do this on this side.

ORDER OR PROCEDURE

Mr. MITCHELL. Mr. President, before I yield to the Senator from Rhode Island, let me add those Senators whose names were on the list read by Senator NUNN as having amendments for tomorrow are asked to please remain because we are going to attempt this evening to get a unanimous-consent agreement governing the offering and disposition of those amendments tomorrow morning so that when we get here tomorrow morning we will not spend several hours trying to line up amendments. We will have ready to go a specific list of specific amendments, hopefully, all with time limitations.

I am glad to yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I wanted to add that the amendment on support of Eastern Europe democracy will be offered by me and my colleagues at some point tomorrow.

Mr. NUNN. The Senator from Rhode Island had told me that and I forgot to put in on the list. That is an important amendment. It is one of those.

Mr. WARNER. My attention was diverted momentarily. Would the Senator repeat the request?

Mr. PELL. We have an amendment here for the support of Eastern Europe democracy and that is a fairly substantial amendment that we feel fits into the defense DOD bill we intend to offer.

Mr. WARNER. Mr. President, I have to advise my distinguished friend and chairman of the Foreign Relations Committee that that amendment might bring to a screeching halt everything we are endeavoring to do tonight. I urge him to reconsider whether or not it would be appropriate to put it on this bill and the likelihood of the progress we are now making bringing this bill to a conclusion such as the Senate can then commence its August recess is going to be highly jeopardized if that bill would be brought up.

I am speaking on behalf of others on this side who know far more than I do about this bill. But I very clearly got the impression that that piece of proposed legislation could well bring the progress that we have underway to a halt.

Mr. MITCHELL. I did not want to shut off the Senator from Rhode Island.

Mr. PELL. I heard the words of the Senator from Virginia and value his friendship. Still for the time being that is my intention to bring it up.

Mr. MITCHELL. I yield.

Mr. BUMPERS. Mr. President, I say that the Senator from Rhode Island, the chairman of the Foreign Relations Committee, has an obviously serious amendment. I see absolutely no reason why he is not entitled to debate it with some kind of time agreement and have the Senate consider it. I do think it is rather unbecoming to say somehow or other the defense bill is going to come to a screeching halt.

The Senator from New Mexico has an amendment dealing with SDI that is going to take an inordinant amount of time, but at least the distinguished Senator from Wyoming has said he is not filibustering; he is going to give the Senate a chance to vote on the amendment of the Senator from New Mexico, which is, I think, courtesy in the grand style of the Senate. And to suggest that the Senator from Rhode Island should not have opportunity to debate—I do not know much about the amendment, but what he said seems to me a very important issue that he is entitled to be heard on.

I hope that the Senator from Virginia, my good friend who is the distinguished ranking member on the Armed Services Committee, would do all he could to accommodate the Senator from Rhode Island and his amendment.

Mr. MITCHELL. Mr. President, might I suggest that we discuss that in connection with the list we are preparing, and I thank my colleague. We will do the best we can on that.

For now I would like to suggest that we go ahead and proceed in the preparation of this list for tomorrow morning on the amendments that have been identified.

In that event, Mr. President, there will be no further rollcall votes this evening. Those Senators who are going to offer these amendments should remain, because we are going to get agreement now governing the disposition of these amendments tomorrow morning.

Mr. President, I yield to the distinguished chairman.

Mr. NUNN. Mr. President, I might say, as I mentioned earlier, we have seven or eight amendments we can accept tonight. I hope those Senators whose amendment can be accepted tonight will remain also, and we will begin taking those up.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2503

(Purpose: To validate certain contracts entered into by the military departments for the provision of municipal services)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CRANSTON, Mr. COHEN, Mr. KERRY, Mr. PELL, Mr. BENTSEN, and Mr. KENNEDY, proposes an amendment numbered 2503.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, between lines 11 and 12, insert the following new section:

SEC. 321. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES.

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by a military department with a unit of local government for the provision by such unit of local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

Mr. BRADLEY. Mr. President, I offer this amendment on behalf of myself, Senators LAUTENBERG, MITCHELL, CRANSTON, COHEN, KERRY, PELL, KENNEDY, and BENTSEN. This is a very simple amendment. It will validate past payments under certain contracts between military departments and municipalities for police, fire, sanitation and other vital services.

Mr. President, the amendment will provide relief to communities in New Jersey, Maine, Massachusetts, Texas, California, and Rhode Island and in providing municipal services to the military under contracts which the Navy has recently ruled are illegal.

Mr. President, this amendment simply says what is past is past, the slate will be wiped clean.

I am particularly pleased that this amendment will resolve the reimbursement issue between the Navy and the borough of Lakehurst, NJ. Between 1964 and 1989, the borough of Lakehurst was paid to provide police, fire, first aid, emergency management, road maintenance and garbage removal for Pinehurst Estates, a 186-unit housing project for Navy personnel and their families which is located near the U.S. Naval Air Engineering Center, Lakehurst, NJ.

Whatever the Navy now feels about these contracts, they were signed and executed by the Navy—and the communities have spent these payments long ago. There is simply no way for the borough of Lakehurst to reimburse the Navy for past payments. The Navy has demanded approximately $350,000 in reimbursement from the borough of Lakehurst. This represents almost one-third of the borough's municipal budget. For a small town such as Lakehurst this would be an overwhelming burden.

Not only does the borough of Lakehurst not have the means to make such payment, but such payment would not be fair. Lakehurst rendered its municipal services in good faith and had been paid regularly for 25 years. The current residents of Lakehurst cannot be held accountable for what the Navy 25 years later deems to have been a mistake. The Lakehurst community is comprised of many elderly and retired naval personnel. The Navy has been a good neighbor to the borough of Lakehurst. It would be a shame to let such a mistake spoil this relationship.

This amendment simply says what's past is past. Lakehurst's slate will be wiped clean. The borough will not have to reimburse $350,000. I am pleased that this amendment has been accepted on both sides and I thank the Chair.

Mr. President, I understand that the amendment will be accepted and it is cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to join with Senator BRADLEY in proposing this amendment which would rectify a grave situation.

Mr. President, Lakehurst borough is a small town in New Jersey that is home to the Lakehurst Naval Air Engineering Center. Between 1964 and 1989 the Navy paid Lakehurst to provide services to the Pinehurst Estates, a housing project for naval personnel and their families. The services Lakehurst provided were common, community services such as garbage collection, snow removal, and police and fire protection.

Lakehurst has always been a good neighbor to the Navy and Lakehurst provided these services in good faith and in a spirit of cooperation with the Navy.

Recently, however, the situation changed drastically. Last year, the Navy conducted an audit which concluded that the Government should not have been paying Lakehurst for those services. Lakehurst was subsequently informed that the Navy was making other arrangements and was abrogating the contract with the borough.

Unfortunately, that is not the end of the story. The Navy decided it wanted its money back. Legally, it could not get all the money back—but it wanted to get what it could. So on June 12, the Navy sent a letter to Lakehurst requesting repayment of all the money paid to the borough from 1983 onward. The letter reads like a credit card bill: "The total amoung of the improper payments * * * is $348,989.12 * * * this amount is due and payable within 30 days of receipt of this letter * * *" Please make your check payable to the Treasurer of the United States.

Mr. President, this situation might have been funny if it was not so frightening: the Navy bungles for 25 years and Lakehurst is told that it has 30 days to pay for the Navy's mistakes.

But a demand like that is not funny, it is frightening and it is reprehensible and it is insulting. The 3,000 citizens of Lakehurst cannot and should not have to pay for the Navy's mistakes. Lakehurst is a community that has been a good home to the Navy and its people. In fact, a large number of naval personnel have stayed in Lakehurst even after they have left the Navy. Is this anyway for the Navy to behave?

The amendment Senator BRADLEY and I have introduced would relieve Lakehurst, and other communities in the same situation, of an obligation they should never have had in the

first place. Mr. President, we can not go back and rectify the bureaucratic snafus that gave rise to this problem; however, we can at least change the law so that the Navy's mistakes will not adversely affect innocent communities like Lakehurst.

I urge the Senate to adopt our amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Chair and I urge adoption of the amendment. It has been agreed to on both sides, it is an equity amendment relating to community and their expectations. So I urge it be adopted.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this side, likewise, finds the amendment in order and urges its adoption.

Mr. President, at this time may I express my appreciation to the two Senators from the great State of New Jersey which made it possible for the amendment on the Potomac to be adopted. I thank them.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 2503) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote.

Mr. NUNN. I have to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I thank the distinguished managers.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we have a Helms amendment that I believe has been cleared if the Senator from North Carolina is here to present it; a Hatch amendment; a Dixon amendment; a Lautenberg amendment; a McConnell amendment; and two Levin amendments. All of those have been cleared, if the authors are here to present their amendments. I see the Senator from New Jersey is here.

The PRESIDING OFFICER. The Senator from New Jersey.

The Chair will advise the Senator from New Jersey that there are amendments pending, and all Senators offering amendments, there are amendments pending that would require unanimous consent to set them aside.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the amendments be set aside to consider an amendment that I believe has been cleared by the managers of the bill that I offer on behalf of Senator BRADLEY and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

AMENDMENT NO. 2504

(Purpose: To require the Secretary of Defense to conduct a study to determine whether any of the restricted special use airspace along the eastern seaboard could be opened to commercial aircraft)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of myself and my senior colleague from New Jersey [Mr. BRADLEY] and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. BRADLEY, proposes an amendment numbered 2504.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airpsace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals by the Secretary for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for providing access to civilian commercial aircraft to such airspace.

Mr. LAUTENBERG. Mr. President, this amendment addresses a problem of serious concern to many of my constituents. The problem is aircraft noise.

In 1987, without the benefit of public hearings or an environmental impact statement, the FAA implemented a major change in the air traffic routes over New Jersey.

Since this new plan went into effect, many New Jerseyites have been bothered by the noise of planes flying overhead. Senator BRADLEY and I, along with Members of New Jersey's House delegation, have been working to try to provide relief to our constituents.

Like our constituents, we have been frustrated by the inability of the FAA to provide relief. We have met with the Transportation Secretaries, and the FAA Administrators, We have pushed for meaningful changes. But, none has come.

With this amendment, we are exploring an option that we believe has not been fully utilized.

Off the east coast, there are major tracts of airspace reserved for military use.

Allowing the FAA to use some of this space for civilian traffic, especially during the times of heaviest traffic, could have tremendous benefits for our constituents. It could mean that planes leaving the major metropolitan airports could gain altitude over the water, rather than over densely populated areas of northern New Jersey.

To put it another way, when planes take off and climb to cruising altitude, they apply a great deal of power, and generate a lot of noise. I would like to see that noise falling on the ocean, and not on my constituents.

Mr. President, this amendment directs the Department of Defense to examine the possibilities of increased civilian use of this restricted airspace. And, if it is feasible, it directs the Secretary to work with the Department of Transportation to provide the sort of relief we are looking for.

This is an initiative that could provide meaningful relief for the New Jerseyites suffering from aircraft noise, and I urge my colleagues to support it.

It is my understanding that this amendment has been cleared by the managers of the bill. I am grateful to them for that.

Mr. WARNER. Mr. President, the amendment is cleared on this side of the aisle.

Mr. NUNN. Mr. President, I would like to ask the Senator from New Jersey a question.

Mr. President, page 3, capital D, which is line 3, there is a sentence that says, "Proposals by the Secretary for permitting increased access to such special use airspace, particularly

during daylight hours, by civil aviation aircraft."

Mr. President, that report is being done by the Secretary. So I would suggest to the Senator that he amend his proposal to scratch the words on page 3, line 3, reading "by the Secretary," so they would read "proposals for permitting," otherwise he would be examining his own proposal.

AMENDMENT NO. 2504, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I think the manager makes a good suggestion. I am prepared to modify it. I do not know what the parliamentary procedure is to do that. But if we ask unanimous consent for that.

Mr. NUNN. The Senator has a right to modify his amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator has a right to modify his amendment.

The amendment, as modified is as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for providing access to civilian commercial aircraft to such airspace.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. NUNN. I urge the amendment be accepted.

Mr. BRADLEY. Mr. President, I am pleased to join with my colleague from New Jersey [Mr. LAUTENBERG] in offering an amendment which requires the Secretary of Defense to look into using military airspace for civilian air traffic during peak hours. The Department of Defense has said in the past that this military airspace is off-limits to commercial aircraft, but they have given no real justification for their refusal. A large sector of airspace over coastal waters of the mid-Atantic region of the Eastern United States is used by the Department of Defense and is off-limits for commercial aircraft. Allowing greater use of this airspace during peak hours would decrease traffic over populated areas and therefore decrease noise pollution.

The density of traffic in the sky over New Jersey has created unusual and intolerable levels of aircraft noise in many communities. A comprehensive effort to address the problem of aircraft noise must include a full examination of the use of military airspace.

In 1987, the Federal Aviation Administration announced the expanded east coast plan which was designed to improve safety and reduce delays at the east coast airports. However, delays at the New York metropolitan airports are on the rise and hundreds of New Jersey residents are angry and frustrated. Residents in some areas of New Jersey that never experienced noise are finding that aircraft noise is destroying the tranquility of their once peaceful homes.

We have repeatedly asked the FAA to provide relief to the residents of New Jersey but they have stubbornly adhered to a policy of business as usual. This is unacceptable. This study will hopefully identify one possible source of relief for the communities in New Jersey.

Mr. President, New Jersey homes have been subjected to unreasonable levels of aircraft noise. In may view, pollution is pollution, and we cannot tolerate noise pollution any more than we can tolerate pollution of the water we drink or the air we breathe. This amendment is part of a broader effort that Senator LAUTENBERG and I have proposed to combat this intolerable noise. I am pleased that both sides have accepted this amendment and I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2504) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I saw the Senator from Michigan here a moment ago. He had a couple of amendments.

Mr. WARNER. Mr. President, I would like to get the attention of the distinguished chairman. I have an amendment handed to me by Senators MCCONNELL and FORD entitled "Expressing the Sense of the Senate Concerning U.S. Armored Forces." The amendment has, I understand, been cleared on both sides, but I ask the chairman to verify that.

Mr. NUNN. Mr. President, the Senator from Virginia is correct. This is an amendment we have seen earlier and we have made a couple of small changes in the amendment. It is satisfactory.

AMENDMENT NO. 2505

Mr. WARNER. Mr. President, at this time the Senator from Virginia on behalf of Senators FORD and MCCONNELL sends an amendment to the desk and asks for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. MCCONNELL (for himself and Mr. FORD) proposes an amendment numbered 2505.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At an appropriate place, add the following new section:

Whereas dramatic changes have occurred in the military situation in Europe;

Whereas the Warsaw Pact is no longer a credibly military threat to NATO;

Whereas it appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced by arms control agreements or unilateral actions;

Whereas the need for armor forces has not disappeared and many countries in the world possess large inventories of modern tanks;

Whereas the Soviet Union will still produce 1,400 new tanks in 1990;

Whereas with significantly increased warning times of enemy attack, greater reliance will be placed on U.S. Reserve Component Forces for Armored Heavy Force reinforcement missions;

Whereas there is a need to enhance the capabilities of Reserve Component Armored Forces to assume increased responsibilities for Armored Heavy Force reinforcement missions;

Now, therefore, it is the sense of the Senate that—

(1) The U.S. Army should take timely and necessary steps to enhance the capabilities of Reserve Component Armored Forces.

(2) The U.S. Army Armor Center will remain the center for training, education, doctrine and combat development for U.S. Armored Forces—for both Active and Reserve Components.

(3) The U.S. Army Armor Center should ensure that Reserve Component Armored Forces are adequately prepared for the increased reliance that will be placed on their greater role in Armor Heavy Force reinforcement missions.

Mr. WARNER. Mr. President, at this time hearing no further debate, I ask that the amendment be agreed to.

The PRESIDING OFFICER. It there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2505) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2506

(Purpose: To request a report on Soviet INF violations)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is an amendment proposed by Mr. HELMS, Mr. DOLE, Mr. WARNER, Mr. WALLOP, Mr. NUNN, and Mr. LUGAR.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The Senator from Virginia [Mr. WARNER], for Mr. HELMS (for himself, Mr. DOLE, Mr. WARNER, Mr. NUNN, Mr. WALLOP, and Mr. LUGAR), proposes an amendment numbered 2506.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it it so ordered.

The amendment is as follow:

At the end of the bill add the following new section:

"SEC. . It is the sense of the Senate that, pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before concluding a proposed Strategic Arms Reduction Treaty, the President provide:

(1) A special classified and unclassified report to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of East Germany, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed; and

(2) A special classified and unclassified report to the Senate on whether the Soviet Krasnoyarsk radar, which Soviet Foreign Minister Shevardnadze admitted is a clear violation of the ABM Treaty, has been verifiably dismantled in accordance with United States' criteria.".

Mr. HELMS. Mr. President, the Soviets have reportedly admitted that SS-23 INF missiles of Soviet manufacture are in the territory of their Warsaw pact allies, East Germany, Czechoslovakia, and Bulgaria. Moreover, the nuclear warheads for these SS-23's reportedly remain under Soviet control, thereby in effect keeping these SS-23's under Soviet control.

The question has arisen as to the failure of the Soviet Union to disclose these transfers during the negotiations on the INF Treaty, and to dismantle them as required by the provisions of the Treaty.

I am advised that a special executive branch report on this important INF Treaty compliance problem has already been prepared by the national security departments and agencies, but the completion of the report has been delayed for over 2 months by the National Security Council staff.

Mr. President, this report should be completed, and it should be made available to the Senate. The ability of the United States to enforce Soviet compliance with the INF Treaty depends in part upon timely and accurate reports on Soviet compliance problems to the Congress. Indeed, we need to have that information before a proposed Strategic Arms Reduction Talks Treaty, or START Treaty, is signed.

The importance of Presidential collaboration with the Congress in trying to achieve Soviet arms control compliance is reflected in President Bush's February 23, 1990, letter to the Congress enclosing his Presidential report on Soviet Noncompliance with Arms Control Agreements. President Bush stated:

I intend to continue to press for scrupulous Soviet compliance with their arms control treaty obligations. The principle of scrupulous compliance is particularly important as we near completion of new arms control treaties. I value the strong congressional support for our compliance policy to date, and look forward to working closely with the Congress on these issues in the future.

I could not state my own hopes for full Soviet compliance with the INF Treaty more succinctly, and I hope that the Senate will continue to work closely with President Bush to achieve this important goal.

The Senate should support fully the President's efforts to encourage the Soviet Union to comply with the INF Treaty.

A timely report on the SS-23 matter will strengthen the Senate's ability to support the President's increasingly successful policy of improving Soviet arms control treaty compliance. I believe that such a report is needed before the President signs a proposed START Treaty.

My amendment merely requests that the President send this special INF report to the Senate before he signs a START Treaty.

Mr. President, the Senate has overwhelmingly voted several times that the Soviet Krasnoyarsk radar is a clear violation of the ABM Treaty, and that as such, it was an obstacle to the signing of a proposed Strategic Arms Reduction Treaty.

The almost total unanimity of both Houses of the Congress on this point finally persuaded the Soviet Union to admit that Krasnoyarsk was a clear violation of the ABM Treaty.

Last October 23, Soviet Foreign Minister Shevardnadze himself finally admitted that Krasnoyarsk was a clear violation of the ABM Treaty in an historic speech to the Supreme Soviet. Shevardnadze also promised to fully dismantle Krasnoyarsk.

Mr. President, the 1989 and still current edition of the Defense Department's series of volumes entitled "Soviet Military Power" states:

If arms control is to have meaning—if it to contribute to national security and to global and regional stability—all parties must comply fully with the agreements they make. This fundamental precept underlies U.S. arms control policy. For this reason, the United States has informed the Soviet Union that no further agreements in the START or Defense and Space areas are possible until Moscow corrects its violation of the ABM Treaty involving the Krasnoyarsk radar in a verifiable manner that meets U.S. criteria.

I believe that this is a sound policy, and the Senate has already supported this policy several times.

Mr. President, there are press reports that the Soviets may have begun to dismantle Krasnoyarsk. I hope that these reports are accurate. We should continue to encourage the Soviet to complete their dismantling of Krasnoyarsk.

My amendment merely requests a report from the President on whether Krasnoyarsk has been completely and verifiably dismantled according to U.S. criteria, before the President signs a START Treaty.

Mr. WARNER. Mr. President, as I indicated, the amendment has been cleared on this side of the aisle. In view of the fact that the distinguished chairman of the Armed Services Committee is a cosponsor, I would presume the amendment is cleared on that side of the aisle. I see acquiescence from that side of the aisle. Therefore, I ask that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2506) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ENERGY SECURITY PLAN

Mr. MURKOWSKI. Mr. President, I wonder if I may offer an amendment at this time? It has been given to both sides. It is a very simple amendment. I am inclined to think that it would be accepted. Senator MCCLURE has indicatged a willingness to cosponsor it.

The purpose is to establish a national energy security plan designed to reduce U.S. dependence on foreign oil. It would establish a national oil import ceiling for crude oil and other oil products at 50 percent of U.S. consumption. It would have two features. The President would prepare and submit an annual report to Congress containing national oil security projections. The report would contain forecasts of domestic oil demand and production, and forecasts of oil imports for the subsequent year.

Second, the report would also contain actions necessary to reduce reliance on foreign oil to below 50 percent. That would be the ceiling level.

Mr. WARNER. Mr. President, in order to save time, if the Senator would yield for an observation, this side of the aisle has not had an adequate time to study the amendment. I am not sure the other side has had that opportunity. Of course, the Senator is free to discuss his amendment. But bear in mind at this time we simply have not had adequate opportunity to study it.

Mr. NUNN. Mr. President, we just received a copy of the amendment as the Senator stood up to speak. We have not had a chance to study it. It is one of those we would have to consult with the Energy Committee on because it clearly is a matter in their jurisdiction. So I would suggest the Senator might wait until tomorrow when we have a chance to study it.

Also I would suggest he get with the Energy Committee and ask them to give us some views on it.

Mr. MURKOWSKI. I wonder if I may have another minute so I can finish the explanation. I think you will find it acceptable and it is seldom that we have an opportunity to have the attention of our colleagues.

If the ceiling level of 50 percent has been exceeded for 6 months out of any continuous 12 months, the President shall then prepare an energy production and security action plan. The action plan shall contain specific actions to be taken to reduce oil imports below the 50 percent ceiling level. Possible actions include domestic production incentives such as possible oil import fees, royalty reductions, and tax incentives.

All Federal land tracts, including those currently off limits, would be included for consideration for oil and gas discovery potential. Of course, we would exclude national park systems.

And the balance in this—if I could have the attention of my colleagues—is that Congress must pass a joint resolution to approve the President's plan of action.

It is the intention of the Senator from Alaska to simply expedite this process and, as a consequence, I remind my colleagues that Senator BENTSEN offered a similar amendment in 1986 but it mandated specifically oil import quotas. This does not. That received 44 votes.

I think we have a situation, Mr. President, where the effect of the oil embargo, as we see it, is a matter affecting our national security. It is facing our President to take action. That is the purpose of the amendment of the Senator from Alaska.

I appreciate any comments the floor managers would care to make. Or if there is some way we could expedite this, tomorrow, if they wish, or whatever.

Mr. WARNER. I thank the Senator. We will endeavor to expedite it, but it is not likely we can reach a conclusion tonight.

Mr. MURKOWSKI. Might I assume, since it has been brought to the attention of the floor managers, it will be ready to be addressed tomorrow in the sense of making a determination whether they accept it or not relatively early?

Mr. WARNER. We will, of course, endeavor to try to accept it and accommodate the Senator, but we cannot make any commitment that would indicate that action would be taken. But we will make our best effort to clear it on both sides.

Mr. MURKOWSKI. It is the Senator's intention to move this process along. That is why I took this opportunity to bring it up.

Mr. WARNER. I thank the Senator for doing it.

Mr. President, are there other amendments?

The PRESIDING OFFICER. The Senator from Michigan is recognized. Without objection the pending amendment is set-aside.

AMENDMENT NO. 2507

(Purpose: To provide for the procurement of commercial and nondevelopmental items, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. COHEN, Mr. GLENN, Mr. BINGAMAN, Mr. ROTH, and Mr. WALLOP, proposes an amendment numbered 2507.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15, add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace' ".

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new paragraphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following subsection:

(f) COMMERCIAL AND NONDEVELOPMENTAL ITEMS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;

"(ii) performance required; or

"(iii) essential physical characteristics;

"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelop-

mental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subpargraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards of applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) the exemption of any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

(2) The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopment items.".

(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopment items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

(A) contracting officers in the fundamental principles for price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses".

(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and necessary in the Federal Information Resources Management Regulation.

(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

(C) such recommendations for changes in law or regulation as the Comptroller Gener-

al of the United States may consider appropriate.

Mr. LEVIN. Mr. President, for too many years now, we have seen the Department of Defense and other Federal agencies purchasing expensive, specially designed products when ordinary commercial and off-the-shelf products would do. We have all seen examples of competent businessmen and women who have tried to sell their products to the Federal Government, but have given up in the face of the overwhelming maze of Government procurement laws and regulations.

I have been working for several years now to address these problems. Five years ago, we passed a provision to encourage the Department of Defense to save money on research and development by purchasing commercial and off-the-shelf products—known as nondevelopmental items or "NDI's"—instead of unique products that are specially designed for the military. Last year, we passed another provision, which requires the simplification of DOD regulations and makes it easier for companies to sell NDI's to the Pentagon.

Unfortunately, it is apparent that we still have a long way to go. Last November, for example, I read in the newspaper that the Air Force had decided to purchase 173 FAX machines for $421,000 each. I asked my subcommittee staff to look into this, and they learned that these specially designed FAX machines—which were already outdated by the time the Air Force made its final production decision—actually cost $94.6 million, or about $547,000 per machine, including production, development and spare parts. The Army purchased NDI's instead, and got similar machines for less, about $16,000 each.

How did this happen? I am convinced that it is because the Pentagon is biased in exactly the wrong direction—toward products that are designed and built exclusively for use by the military. All too often, it seems, when the Pentagon decisionmakers get together to decide what they need, they develop gold-plated requirements first and only then look to see what is already available. The result is predictable—overly complex and burdensome specifications that cannot be met by off-the-shelf products that otherwise meet the Government's needs.

Moreover, as we learned in subcommittee hearings last April, the Department of Defense is not the only Federal agency with this kind of problem.

In one example provided at the subcommittee hearings, a civilian agency required that computer equipment be supplied in a particular color. Because the winning vendor did not produce equipment in that color, it had to send the side panels to a local shop to be repainted, at Government expense.

In a second case cited at the hearings, a standard commercial cotton pad used by printers around the world was rejected for purchase by the General Services Administration because it had not been subject to the rigorous testing required by GSA—dropping it in a glass of water to make sure that it would sink.

Mr. President, the Governmental Affairs Committee recently reported a bill, S. 1957, the Nondevelopmental Items Act of 1990, which would address these problems. I introduced this bill last November, with Senators COHEN, GLENN, and ROTH, and it was approved by a unanimous 9-0 vote of the Subcommittee on Oversight of Government Management.

S. 1957 would require civilian agencies to take the same steps to encourage the acquisition of NDI's that are already required of DOD under the 1987 and 1990 authorization acts, and adds a couple of new provisions in the spirit of those requirements.

Mr. President, because this bill takes procurement provisions that have been included in past defense authorization acts, and makes them Governmentwide, I believe that S. 1957 is an appropriate addition to this year's defense bill.

Accordingly, I have sent to the desk an amendment to section 812 of the bill. The amendment we propose would promote the acquisition of NDI's on a Governmentwide basis, by requiring agencies to:

First, purchase NDI's to the maximum extent possible;

Second, simplify their product requirements, telling companies what they want, rather than how to build it;

Third, eliminate unnecessary and burdensome contract clauses that serve as an impediment to NDI contracts;

Fourth, tailor appropriate inspection requirements for NDI's;

Fifth, reduce paperwork requirements for contractors in NDI contracts;

Sixth, enhance training for acquisition personnel in the procurement of NDI's; and

Seventh, designate officials responsible for promoting the acquisition of NDI's.

In addition, the bill would add to the provisions already in effect for the Department of Defense, requiring DOD and other Federal agencies to conduct market research to determine whether existing products can meet their needs. This is a commonsense step that the Pentagon has failed to implement on its own, so a legislative mandate is necessary.

Mr. President, with these changes, we can make some real strides toward buying products that are already in use, instead of new, expensive, Government-unique items. I hope that my colleagues will join me in supporting this effort.

To summarize, Mr. President, last year the Congress established a major initiative to streamline the acquisition system by enhancing DOD's ability to procure off-the-shelf items. Key features of that initiative included the development of a simplified uniform contract for the acquisition of commercial items, elimination of unnecessary contractual clauses, development of a commercial products inspection clause, and minimization of requirements for submission of certified cost and pricing data.

Mr. President, we enhanced this initiative to buy commercial and off-the-shelf items in our bill this year in section 812.

What this amendment does is, it takes these initiatives which we have applied to the Department of Defense and applies them Governmentwide. The initiatives have been successful, they worked, we encouraged the purchase of commercial items rather than designing from scratch. It saves the taxpayers an awful lot of money in the process. We now think we are ready to do this Governmentwide.

I understand this has been cleared on both sides of the aisle.

Mr. WALLOP. If my friend would yield, let me say this is now one of several things that are happening Governmentwide that we fought, scrapped, and struggled to get into the defense authorization a year ago. It is well overdue. It works, and it is really welcome to see it going Governmentwide. I was pleased to be included as a cosponsor of this amendment.

Mr. LEVIN. I thank my colleague for his comments.

Mr. President, I believe the managers of the bill have cleared this amendment. They are otherwise occupied at the moment.

Mr. WARNER. Mr. President, I say to the distinguished Senator from Michigan that this amendment has been carefully considered on this side of the aisle. It has received clearance. We urge its adoption at the appropriate time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WALLOP. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2507) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 2508

(Purpose: To extend the period of suspension for certain provisions of law relating to postemployment restrictions)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. GLENN, Mr. BINGAMAN, and Mr. WALLOP, proposes an amendment numbered 2509.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Section 833, strike out subsection (a) and all that follows through "(d) TECHNICAL AMENDMENT.—Section" and insert in lieu thereof the following:

(a) EXTENSION OF PERIOD OF SUSPENSION OF CERTAIN PROVISIONS OF LAW.—Section 507 of the Ethics Reform Act of 1989 (Public Law 101-194; 103 Stat. 1759) is amended by striking out "one year after such day" and inserting in lieu thereof" May 31, 1991".

(b) TECHNICAL AMENDMENT.—Section

Mr. LEVIN. Mr. President, last November, as part of the Ethics Reform Act of 1989, the Congress agreed to an administration request to suspend for 1 year a number of procurement ethics statutes. Seven months later, on June 21, the administration proposed, and Senator ROTH introduced, a bill to repeal several of these statutes and to revise others.

The administration bill, S. 2775, has been referred to the Committee on Governmental Affairs. In late July, the administration requested that the committee hold hearings on this bill. At the same time, the Armed Services Committee acted to adopt several of the administration's recommendations, on a piecemeal basis, in section 833 of the pending bill.

I believe that many aspects of the administration proposal have merit and deserve serious consideration by the Congress. As we in the Congress have struggled to reform the procurement system over the last decade, we have added many new ethics provisions to the procurement code. While each of these provisions addresses a very real ethics problem, the accumulation of such provisions has resulted in a complex series of overlapping and sometimes redundant requirements.

At the same time, however, we must not be overly hasty to roll back ethics provisions. Statutory simplification is a desirable goal, but when the statutes to be simplified contain safeguards that are crucial to the integrity of our procurement system, they must not be haphazardly cast aside.

In short, I agree with the administration that the time has come for a reexamination of our procurement ethics laws. Moreover, the reexamination, if there is to be one, must encompass the entire range of procurement ethics provisions. If we are going to come up with a comprehensive solution, we must look at all aspects of the problem. It simply does not make sense to enact piecemeal changes today, before we have even started our comprehensive review.

Unfortunately, we are rapidly approaching the end of the legislative session. The procurement ethics provisions were suspended 8 months ago and will come back into effect, absent congressional action, on December 1, 1990. However, we did not receive a formal administration proposal for the revision of these statutes until June 20. By the time the administration requested hearings on this bill, less than 2 months remained on the legislative calendar for this year.

The provisions addressed in the administration bill are too important to be addressed without public hearings at which all parties concerned, including both advocates of simplification and advocates of strong procurement ethics safeguards, have an opportunity to be heard. The process of public hearings, discussions, markup, and enactment of a statute is time-consuming, but it is the best way to ensure that any revisions to the law reflect the best judgment of the Congress and the people.

For these reasons, I believe that the only reasonable approach available is to defer action on the procurement ethics laws—including the provisions addressed in section 833 of the pending bill—until the beginning of the next Congress. At that time, I intend to hold public hearings and markup a comprehensive procurement ethics bill in my Subcommittee of the Governmental Affairs Committee. I know that the chairman of the committee, Senator GLENN, concurs in this approach.

Mr. President, in the absence of congressional action, the suspended procurement ethics statutes suspended statutes will come back into effect on December 1 of this year. Because I propose to defer action on these statues until next year, I believe it is appropriate to extend the suspension of the statutes for an additional 6 months.

This additional suspension period should give the Congress adequate time to conduct public hearings and enact appropriate legislation. It should avoid the confusion that would be caused by allowing the statutes to go back into effect in December, only to be revised again a few months later.

At the same time, this suspension, if it is enacted, should not be taken by the administration as a sign that the Congress is not concerned about procurement ethics. With many of my colleagues, I continue to believe that these statutes serve an important purpose, protecting the procurement system against real ethics problems. Prompt action shouild be taken by the administration to safeguard the procurement system during the suspension period, and to ensure that appropriate implementing regulations are ready when and if the statutes go back into effect.

Mr. President, I have sent to the desk this amendment on behalf of myself and Senators GLENN, BINGAMAN, and WALLOP to delete subsections (a), (b), and (c) of section 833 from the bill and to substitute a provision continuing the suspension of the procurement ethics statutes for an additional 6 months.

In brief, Mr. President, last year Congress suspended certain post-employment restrictions until December 1 of this year. We did that in order to give the administration an opportunity to submit a legislative proposal. The problem is that that legislative proposal did not come in until June 21. That has given us insufficient time to consider that proposal.

This amendment would extend the suspension of those provisions and would defer consideration of changes which the committee proposed until the end of that suspension period.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, the amendment of the distinguished Senator from Michigan has been reviewed on this side, and we urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2508) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table and the motion to reconsider is agreed to.

Without objection the pending amendment is set aside.

AMENDMENT NO. 2509

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the distinguished Republican leader, Mr. DOLE; Mr. LUGAR; Mr. WARNER; Mr. GRAMM; regarding U.S. military personnel involvement in the Philippine earthquake relief effort. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. DOLE (for himself, Mr. LUGAR, Mr. WARNER, and Mr. GRAMM) proposes an amendment numbered 2509.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place, add the following:

FINDINGS.—The Senate makes the following findings:

(1) The men and women in the United States Air Force, Marine Corps and Navy, serving in the Pacific region, have given substantial and significant assistance to the government and people of the Philippines following the July 16 earthquake, which resulted in the deaths of over 1,600 people, as well as severe dislocation and devastation.

(2) U.S. military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions, and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from Subic Bay have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems, and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by members of Clark Air Force Base and other Pacific Air Force bases, and 120 units of blood were donated by members of Subic Bay Naval Facility.

It is the sense of the Senate, that—

(1) The earthquake relief assistance provided by U.S. military forces has played an essential role in the Philippine recovery from the July 16 earthquake.

(2) Those U.S. armed forces and their dependents who have assisted in Philippine earthquake relief should be commended by the United States Senate for their considerable efforts on behalf of the Philippine people in their recovery efforts.

Mr. DOLE. Mr. President, on July 16, a severe earthquake struck the Philippines. The earthquake took a heavy toll: Over 1,600 people have been confirmed dead, hundreds have been injured, and many areas in the Philippines are devastated.

Today, together with the distinguished senior Senator from Indiana, Senator LUGAR, and the distinguished ranking Republican on the Armed Services Committee, Senator WARNER, I am offering an amendment to commend those who came to the assistance of the Philippine people within 24 hours of this tragic event: The men and women in our military who serve in the Philippines and surrounding areas.

In my view, U.S. military personnel have played an essential role in the Philippine recovery effort. And, I have the facts to prove it. They are recorded in this amendment, but I would like to review some of them now:

The U.S. Air Force has flown over 220 sorties, including medical evacuations;

More than 1,140 tons of supplies and equipment have been airlifted;

The Marine Corps has flown over 250 aircraft missions and has transported over 1,000 Philippine nationals via helicopter, as well as more than 500,000 pounds of cargo;

Navy medical personnel have been providing critical medical assistance;

Military civil engineering teams have been working to rescue people in the city and to restore water and electrical systems;

Seven hundred ninety units of blood were donated by military personnel and their dependents stationed at Clark Air Force Base and Subic Bay naval facility; and

Finally, let us not forget that one American life was lost during a relief mission: a Marine Corps pilot died tragically in a helicopter crash on July 20.

Mr. President, the assistance U.S. military personnel have provided to the Philippines in their earthquake recovery efforts is above and beyond the call of duty. I believe that these considerable efforts were made by our men and women in uniform, not only out of a deep sense of duty, but out of a deep sense of respect for and friendship with the Philippine people. And I believe that it is appropriate for the Senate to commend them for their courageous and tireless work in the Philippine earthquake recovery effort.

Mr. LEVIN. Is the Senator from Michigan correct there was a motion to reconsider laid on the table to my second amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, I think this is a good amendment. I urge its adoption.

Mr. WARNER. Mr. President, I urge the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2509) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider the motion to lay on the table is agreed to.

AMENDMENT NO. 2510

Mr. WARNER. Mr. President, I send to the desk on behalf of the distinguished Republican leader an amendment entitled Sense of the Senate to Commend the Work of the National Guard and Reserve and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. DOLE proposes an amendment numbered 2510.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SENSE OF THE SENATE; TO COMMEND THE WORK OF THE NATIONAL GUARD AND RESERVES

The Senate finds that:

Since the birth of this Nation, the citizen-soldier of the United States has protected their fellow citizens from tyranny, invasion, violence and natural disasters; and

Since the Revolution that threw off our yoke of colonialism, to assisting the Panamanians in their struggle over tyranny, the citizen-soldiers of the National Guard and Reserves, have fought in the defense of freedom; and

As the resolve and sacrifice of our National Guard and Reserves over the last 45 years gave them a lead role in our Nation's winning the cold war; and

As we enter the final decade of this century with our Nation facing new and varied threats to peace, it is imperative that our Guard and Reserve be prepared to respond in a changing world; and

As the National Guard and Reserves make up a large part of our Nation's combat and support units, their mobilization and training will remain vital to our national security; and

As the outstanding Americans who serve in the National Guard and Reserves have maintained their level of excellence through their hard work and dedication to duty, our citizen soldiers have proved our Nation can continue to rely on them in any national emergency; and

The qualities that have given the National Guard and Reserves its venerable history, are still present today; now, therefore

The United States Senate acknowledges the valuable contribution that the men and women of our National Guard and Reserves have made to our Nation's security, and to continue to support their role as the foundation of our national defense in a changing world.

Mr. NUNN. Mr. President, we have given an awful lot of attention to Guard Reserve in this bill. This is a resolution of commendation of them. I think it is a good amendment. I urge its adoption.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2510) was agreed to.

The PRESIDING OFFICER. Without objection, the Chair declares the

motion to reconsider be laid upon the table.

Mr. WARNER. The President, the managers of the bill continue to receive from Senators amendments which can be considered.

Mr. WALLOP. Mr. President, while this conversation is going on, I rise to commend my colleagues on the Armed Services Committee and staff who labored so hard to bring this bill to the floor.

Many Senators on both sides of the aisle believe this is the best defense bill we can get in the current budget environment. Certainly it would fund national defense at a higher level than any of the commonly discussed alternatives. But those alternatives represent an irresponsible, headlong rush to spend the so-called peace dividend—before there is a dividend; and worse, before there is a true and certain peace. Such alternatives explain why Republican members of the committee voted to report this bill out of markup. As is often the case in politics, it was a choice between the disagreeable and the intolerable.

In fairness, I must acknowledge that there are some very sound elements in the bill, and our chairman is to be commended for emphasizing the need to "think smarter, not richer," to "fly before buy," and the like.

But the many statements offered as a context for the bill have gaps and blanks as troubling as the blanks criticized in the administration's budget request and 5-year defense plan. The bill's inherent strategic concepts contain only two scenarios for conflict at the nuclear war end of the spectrum: one, a nuclear attack escalating from a conventional war in Europe (no longer credible with the fall of the Warsaw Pact); or two, a "bolt from the blue" attack, or first strike.

But a third possibility is overlooked—the Soviets' use of overwhelming nuclear power for diplomatic leverage, for intimidation and blackmail, for the pavlovian conditioning of the West and the United States to induce submission to their demands. This possibility, in keeping with the Soviet doctrine of "victory without war," is—and has always been—far more likely than the other two.

Nor does the bill's context offer any discussion of the critical importance of space to U.S. security and prosperity. There is a resounding silence on the vital issue of space—except the rationale for cancelling two major space programs, Milstar and the national aerospace plane. This is an astonishing omission for any strategy that claims to "look forward, not backward."

The first step toward the essential mastery of space is strategic defense, the greatest technical and strategic innovation of the last quarter century. A strategic defense system will not only reduce the threat of ballistic missiles, it will also lead the way to U.S. dominance in the ultimate high ground of space. And yet this bill cuts nearly a billion dollars from the administrator's SDI request.

With the utmost respect, I have to say to the majority members of the Armed Services Committee who gave us this bill: if they are not supporting the defense of the American people against ballistic missiles—and that means robust funding of SDI leading to the eventual development and deployment of an operational system—then their pretensions to the role of strategist ring hollow.

But, Mr. President, my unhappiness with the bill goes beyond the gaps on space and strategic doctrine. Despite the broad discussion of strategy surrounding this bill, what we have here is merely a budget, not a strategy. In my opinion, the process that produced this "strategy" was not a thoughtful exercise in defense policy analysis, but an accountant's exercise. The very term "peace dividend" is the language of accountants. So it should come as no surprise that Senators put provisions in the bill—or have promised to do so with floor amendments—with little consideration of specific threats, strategic imperatives, or military requirements. The result, Mr. President, is strategy made by bookkeepers. And to paraphrase Clausewitz, it is simply the continuation of politics by other means.

I could not agree more that we must use defense dollars wisely. That means long-range strategies, setting priorities and making the necessary hard choices, and efficient management; while at the same time preserving readiness, deterrence, and the defense industrial base.

But budget cutting is not an end in itself. As Edmund Burke said,

> Economy consists not merely in saving, but in selection. Parsimony requires no provision, no sagacity, no powers of analysis, no comparison, no judgment. Mere parsimony is not economy. Expense, and sometimes great expense, nay be essential to true economy.

The Defense Department is not a cash cow to be milked to nourish a bloated welfare state. Its mission is to safeguard our freedom by keeping our military forces strong and ready. In other words, the best economy is safety.

Regrettably, this lesson has to be learned by every new generation. American history is one of a woeful lack of military preparedness on the eve of every one of our wars. And each time it costs us far more than preparedness would have cost—in blood as well as treasure.

This summer marks the 40th anniversary of the Korean war. That conflict teaches the hard costs of unilateral actions that leave us unprepared.

At the end of World War II we demobilized precipitously—and unilaterally. When the Truman administration announced to the world that the United States had no security interests in East Asia, that unilateral declaration and our military weakness led to near-disaster, and a bitter, protracted war that took the lives of 50,000 Americans.

Mr. President, this same sort of thinking is reflected in the bill's underlying assumptions about the Soviet Union. The bill embarks on drastic defense cuts based on the as yet unfulfilled promises of glasnost and perestroika, and despite continued growth in Soviet strategic power. No nation wants to remain forever in a perpetual state of semiwarfare. Constant vigilance is a strain on the character of any people. But it is a fact of life in today's world—vigilance is still the price of liberty.

Members of Congress who speak with the absolute confidence that the Soviet threat has evaporated should remember that all conflict is full of uncertainty. The very nature of the past 40 years of ambiguous nonwar, nonpeace with a thinking, animate enemy is uncertainty. We cannot know what Gorbachev's true intentions are. We can only know for certain what the Soviets are capable of doing, and defend ourselves against that.

No one wants to keep the cold war alive any longer than necessary. But we must resist the euphoria of the moment long enough to make sure the embers of conflict are truly extinguished, not merely banked and left to smoulder until circumstances fan them unexpectedly into flame. We must secure the victory that our strength and resolve have begun, and we cannot do it by unilateral or thoughtless legislation which makes communism in its day of decline a more formidable enemy than before, while we grow weaker in the hour of victory.

Today's budget difficulties and the changing military situation do require that we take some risks. However, it's an unacceptable risk to gamble our future on a single improbable event—that the nomenklatura who still rule the Soviet Union will of their own accord scrap the Soviet arsenal and march off into the ash heap of history. This is not the nature of people and governments, and even less the nature of Marxist-Leninism.

Mr. President, I ask unanimous consent to print in the RECORD a Wall Street Journal article entitled "Demilitarization Is a One-Way Street."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 31, 1990]

DEMILITARIZATION IS A ONE-WAY STREET

(By Gerald Frost)

President Bush and Secretary of State James Baker have good reason to feel perplexed. At every turn they have sought to enhance the political life expectancy of Mikhail Gorbachev, elevating the Soviet leader's survival to the status of a major policy goal.

The Soviet response to this highly considerate treatment has been schizoid, reflecting a style of political behavior Western analysts find difficult to interpret. On the one hand, the Soviet leadership permits a reunified Germany to remain a member of NATO and urges the West not to think of the Soviet Union as an adversary; on the other, it goes on improving the Soviet military machine, lavishly equipping it for the high-tech battlefield of the future.

A STAGGERING THOUGHT

Both at the Houston summit and at the London meeting of NATO ministers, British Prime Minister Margaret Thatcher made a point of stressing the fact of the continuing Soviet arms modernization program, something many Western leaders evidently would prefer to overlook. The British defense secretary, Tom King, also appears puzzled by the disparity between the presumed purpose of perestroika—to switch spending from the military to the domestic sector of the economy—and the Soviet military program. On Wednesday, he announced that British armed forces would be cut by 18%, owing to the apparently diminished Soviet threat.

But earlier this year, he reminded the House of Commons: "It is a staggering thought that even now, in the fifth year of Mr. Gorbachev's time in office, the figures show that one new Soviet submarine is being launched every six weeks. Two aircraft, six tanks and one missile are produced every day. The Soviet defense minister [Marshall Yazov] has said that the emphasis is now on quality rather than quantity: that is certainly borne out by this year's May Day Parade in Red Square, which revealed one new main battle tank and one heavily armored infantry vehicle of very high quality. The Soviet navy recorded a record tonnage of new surface ships during 1989. These ships are larger and more powerful than their predecessors, have longer range and more accurate missiles."

As for arms reductions, of which Soviet spokesmen have made so much, these seemed largely confined to obsolete or aging weapons and vessels, Mr. King said.

Similar evidence was given to the House Armed Services Committee in February by Undersecretary of Defense Paul Wolfowitz. He reported small decreases in the production of Soviet fighters, fighter bombers and bombers, but increases in the production of light armored vehicles, artillery mortars, anti-artillery mortars, short-range, ballistic missiles and tanker aircraft. Moreover, in April the Defense Intelligence Agency reported to Congress that the conversion of military plants to civilian purposes remained virtually nonexistent. Vigorous, broadly based modernization of strategic offensive and defensive forces continued with very high rates of production. No major weapons development program had been stretched or canceled.

In forming an assessment of the current military balance it must also be borne in mind that even where there are meaningful reductions to be found—as in the case of Soviet tank production—present levels exceed those in the West. The Soviets' relative advantages have either been preserved or enhanced.

The evidence would therefore seem to suggest that the Soviet "peace dividend"—if it exists at all—is considerably smaller in proportionate terms than that which most NATO countries, with the exception of France, have already spent. This fact does not discourage Western governments from looking for still further cuts.

Most Soviet economic statistics are meaningless or fraudulent; it may be that the Soviets themselves do not know the exact cost of their defense program. Several Western analysts have suggested the Soviet defense budget was reduced by 4% to 5% during 1989-90, following the completion of the five-year plan during which spending rose by 25%. But since there is little certainty about the level of earlier spending, such calculations may prove to have been worthless. What is clear is that until very recently Western analysts, including those at the CIA, vastly underestimated Soviet military expenditures.

This is apparent from the inclusion in the Soviet military inventory of new, highly sophisticated weapons, as well as from a remarkable speech by Soviet Foreign Minister Eduard Shevardnadze to the Party Congress earlier this month: "It is obvious that if we continue as before, comrades—I state this with all responsibility—to spend a quarter, a quarter, of our budget on military expenditure—we have ruined the country; then we simply won't be needing defense, just as we won't need an army for a ruined country and an impoverished people. There is no sense in protecting a system which has led to economic and social ruin."

For the first time, Mr. Shevardnadze also gave figures for "ideological confrontation" with the West—presumably the bill for propaganda—and "active measures," i.e. disinformation, forgeries, support to the Soviet fronts and agents of influence. The total is 700 billion rubles over the past two decades. (At the current exchange rate, that is about $414 billion.)

There is just one way out of the morass, Mr. Shevardnadze concluded: to cut military spending. Taken at face value, his remarks suggest that reduction of Soviet spending remains more a goal than a fact. It would seem that the Soviet leadership either has been unable to severely cut back programs or, for whatever reason, has chosen not to do so. One possible explanation might be the fear of rebellion by Soviet generals unhappy about the loss of the Eastern European empire and the political turbulence caused by perestroika.

Another explanation might be that a deal has been struck between the generals and Mr. Gorbachev, with the former promising that there would be no military attempt to topple the Soviet leader provided the military budget is largely preserved. A further interpretation of the conflicting signals from Moscow might be that Mr. Gorbachev himself is still not ready to jetison the single source of possible influence in Europe: Soviet military power. Without it, the Soviet Union would be very much the servant in the increasingly close relationship with a reunified Germany.

In any event, continued modernization of nuclear and conventional forces (and continued non-compliance with the arms treaties) demonstrates that Soviet talk of "reasonable sufficiency" and "defensive defense" are not matters that Western defense ministers should take seriously.

In a message to the Western leaders at Houston, Mr. Gorbachev suggested that they had it in their power to mold Soviet foreign and defense policy. There may be some truth in this, but the means by which that influence is exercised is evidently a two-way street. Mr. Gorbachev has done far more to influence Western defense programs than the West has done to influence those of the Soviet Union. While Western defense budgets shrink almost without exception, the available evidence suggests Soviet military spending stays close to 25% of national income and its economy remains on what Soviet dissident Alexander Zinoviev described as being a "permanent war footing." Such remarkable levels of expenditure inevitably skew an already skewed economy.

THE PROSPECT OF UPHEAVAL

Major cuts in defense spending along with fundamental reforms to abolish the apparatus of the command economy remain the prerequisites of Soviet economic improvement. It may be that the Soviet leadership is incapable of countenancing either, in which case the prospect of internal upheaval—perhaps of civil war—may loom large.

It is difficult to forecast what political structure will emerge from that chaos. But whatever its political complexion, the Soviet Union is likely to remain the pre-eminent military power in Europe when U.S. influence looks certain to diminish.

These are the realities. Neither perestroika nor the West's pleasure at the disintegration of communism should be permitted to conceal them.

AMENDMENT NO. 2507, AS MODIFIED

Mr. LEVIN. Mr. President, there is a technical change which I have cleared with the Republican manager. I ask unanimous consent that an amendment which I am now sending to the desk be substituted for amendment No. 2507 which is at the desk and has previously been adopted.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15 add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace' ".

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new pararaphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following new subsection:

(f) COMMERCIAL AND NONDEVELOPMENTAL ITEMS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;

"(ii) performance required; or

"(iii) essential physical characteristics;

"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards for applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) clarification that an agency may not, in the case of any item for which the Administrator of General Services has accepted a certificate of established catalog price, require a contractor to demonstrate that such an item meets the requirements of section 304(d)(5)(A)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(5)(A)(ii)) during the period in which a contract to which the certification relates is in effect.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

(2) The table of contents for the Federal Property and Administrative Services Act of 1984 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopmental items.".

(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive

agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

(A) contracting officers in the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commerical cost data; and

(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.".

(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

(C) such recommendations for changes in law or regulation as the Comptroller General of the United States may consider appropriate.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HERBERT O. JONES, JR.: A SALUTE TO MY FORMER SENIOR OFFICER

Mr. HOLLINGS. Mr. President, this date marks the 80th birthday of a proud and distinguished son of South Carolina, Herbert O. Jones, Jr. Or perhaps I should phrase it differently as merely the 60th anniversary of Herbert's 20th birthday. In any case, I want to extend him my fond congratulations and best wishes.

My own memory of Herbert goes back to France and the Second World War, where I was briefly his junior officer. Both of us were Citadel men, and we hit it off well. After the war, Herbert went on to become top salesman for the J.M. Tull Metals Co. He is now enjoying a well-earned and happy retirement in West Columbia with his wife of 52 years, Martha Tennille Jones.

Herbert is enormously proud of his family, so I know how happy it will make him when three generations of the Jones clan come together next week to honor the man they call "the patriarch."

So, on his birthday, I salute my former senior officer. I wish him equal happiness and success during his next 80 years.

IRAQI INVASION OF KUWAIT

Mr. GRAHAM. Mr. President, I rise today to condemn the Iraqi invasion of Kuwait, a blatant, unprovoked action which further destabilizes an already volatile region. It is for this reason that I have been a strong opponent of extending United States credits to Iraq and voted last week with a majority of the Senate to ban these credits.

Once again, Saddam Hussein has displayed his true colors by his blatant disregard for international law and for the sovereignity of neighboring states. As he showed against Iran and against his own people, Hussein considers violence and military force as options of first resort.

Like other dictators, he has sought to bolster his illegitimate claims against a small neighbor by threats, intimidation, and finally, brutal military force.

Saddam Hussein's acts of aggression underscore the increasing instability in the Persian Gulf. It would be extremely dangerous for us to contribute to this instability by reducing our support of Israel, the most stable force in the region. The United States will play a significant role in stabilizing this crisis in cooperation with Israel.

I support President Bush's freezing of Iraqi assets in the United States and his prohibition of commercial activity between our country and Iraq. I am also encouraged by the United Nations Security Council's vote to condemn the invasion and demand a withdrawal of Iraqi forces from Kuwait.

I hope that our allies and the international community as a whole will condemn and isolate the Hussein regime. We cannot engage in business as usual with a government which shows such little regard for human life and uses military aggression as the sole determinant of its foreign policy.

Mr. President, I hope that the Senate will put itself on record as condemning Iraq in the strongest possible terms.

TRIBUTE TO JIM AND JOY JENKINS

Mr. PRESSLER. Mr. President, I would like to take a momemt to pay tribute to a couple whose love and hope has made so many proud. Joy Jenkins, the daughter of Don and Arlis Hentges from my hometown of Humboldt, SD, and her husband Jim have dedicated their time, love, and resources to helping AIDS babies find homes. Last year the Jenkins' adopted a boy who was expected to develop the deadly AIDS virus as he was born with HIV antibodies that were passed on to him by his natural mother who was a drug addict. The boy is now 3 years old and has not developed AIDS.

In adopting James Michael, the Jenkins' plowed new ground in trying to help an HIV positive child. They faced many roadblocks. Their experience encouraged them to make it easier for other couples who might want to adopt one of these children. They founded a nonprofit corporation called "Children With AIDS Project of America," and began helping anyone who asked.

Most people would not expect a couple who already have given so much to have either the time or the capacity to love yet another child. But they have. Only last month the Jenkins began adoption procedures for little Arlis Joy of Washington, DC. "A.J." as they call her, is another child who has tested positive for HIV antibodies. Now the parents of two beautiful children they continue to plead for caring couples to adopt other babies with this affliction.

Mr. President, Joy and Jim Jenkins have set a good example for all of us in showing their love and compassion for these unfortunate babies. The people of South Dakota are very proud to acknowledge Joy Hentges Jenkins' roots as their own. I commend the Jenkins for their tireless efforts to find loving homes for these children.

I ask unanimous consent that the following article, "Bundle of Hope," from the Phoenix Gazette be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Phoenix Gazette, July 9, 1990]

BUNDLE OF HOPE COUPLE ADOPT SECOND CHILD EXPOSED TO AIDS VIRUS

(By Glen Creno)

Jim and Joy Jenkins welcomed another child to their family last month, and the waiting began.

They don't spend all their time thinking about it, but they can't ignore the possibility their newly adopted daughter might develop AIDS. The girl—like the boy they adopted last year—was born with human-

immunodeficiency virus antibodies in her blood, meaning her mother had the virus that produces AIDS.

Now the Glendale couple must wait to see if the girl, whom they named Arlis Joy, or A.J. will develop the fatal disease or elude it as her new brother has. Joy Jenkins said they won't know for 18 months.

"It's not one of those things you think about or dwell upon every day," she said. "We've got too many good days with her."

"We're very optimistic people," Jim Jenkins said. "We're taking a chance. Nothing in life's guaranteed. And these children give a lot."

In 1987, the couple became foster parents to a 4-month-old boy who was abandoned by his mother and living at Maricopa Medical Center. The boy's mother had been addicted to heroin, cocaine and methadone, and also was carrying the AIDS virus, Joy Jenkins said.

Tests found HIV antibodies in the boy's blood, and no one wanted him.

"We took him home anyway," Joy Jenkins said. "It's cruel and unusual punishment for anyone not to have a mom and a dad."

Last year, the Jenkinses formally adopted James Michael, now 3 years old and showing no signs of developing AIDS. The couple said they found the experience so rewarding they formed a foundation called Children with AIDS Project of America. It is dedicated to finding homes for AIDS babies and children born to drug abusers, particularly crack cocaine addicts.

They learned of A.J. the day before last Thanksgiving through their organization's information network. She was in Washington, D.C., and needed a home.

Joy Jenkins said she knew immediately where the youngster could find one.

"I wanted another child," she said. "It was purely selfish. I wanted a little girl."

They began adoption proceedings, and picked up the baby—now 8 months old—late last month. The Jenkinses hope she will "wash out" the HIV antibodies and not catch the virus as she discards the remnants of her mother's immune system and develops her own.

Joy Jenkins, 35, is a nurse. Her husband, 52, runs the foundation. She said they cannot have children because her husband had a vasectomy 12 years ago, and it is too expensive to reverse the surgery.

"We just don't have the money," she said.

The couple could not get health insurance on their son for three years, even though he tests negative for the HIV antibody. The state paid for health care, but the couple finally landed an insurance company through her nurse's registry last month.

The company will insure A.J., too, Joy Jenkins said.

"When we found out, it was like this big burden was lifted off our shoulders," she said.

Health care is a major obstacle for families wanting to adopt "risk" children. Jim Jenkins said families receive subsidies when they care for a child as foster parents, but the money disappears as soon as they adopt the child and the youngster becomes their direct responsibility.

The children might require from $200 to $2,000 a day in medical care if left in an institution, rather than placed with a family, Jim Jenkins said. And, he noted, when a child is in a hospital, it doesn't have family support.

Many children are "warehoused" in group homes and are difficult to find, Jim Jenkins said. Still, he said, many families that want these children and are willing to fight the frustrations of the system to secure one, or more.

"They must be gluttons for punishment, or gluttons for love, because they want to take more children," he said.

AUTHORIZING THE MAJORITY LEADER TO SIGN HOUSE JOINT RESOLUTION 625

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Senator MITCHELL be authorized to sign House Joint Resolution 625. This request has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. CALVIN SIA HONORED

Mr. INOUYE. Mr. President, a longtime friend of mine, Dr. Calvin Sia, was recently honored by his colleagues with an extraordinary article that appeared in the June 1990 edition of Contemporary Pediatrics. I have worked closely with Dr. Sia over the past three decades on behalf of a wide range of programs benefiting our Nation's children.

Dr. Sia has served on the National Advisory Council of the National Institute of Child Health and Human Development; is past president of the Hawaii Medical Association; and has been an active board member for a number of Hawaii's child-oriented programs. Perhaps his singularly most important contribution, however, has been the spearheading of the pediatric emergency medical services demonstration project, and developing great support among his pediatric colleagues for providing quality assistance to the unique needs of children in our Nation's emergency rooms.

Since our congressional deliberations on the fiscal year 1985 appropriations bill for the Department of Health and Human Services, we have been able to provide support for Dr. Sia's idea, and in fact, we have now spent approximately $15 million supporting 14 demonstration projects across the Nation. Without question, Dr. Sia is a man of much vision and compassion.

Mr. President, I ask unanimous consent that the article from Contemporary Pediatrics be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The Contemporary Pediatrics, June 1990]

EVERY CHILD DESERVES A MEDICAL HOME

Calvin Sia, MD, calls himself the godfather of Hawaii's children; he says it with a chuckle, but it's profoundly true. A primary-care pediatrician in private practice in Honolulu for more than 30 years, Cal Sia is a man with a dream. He envisions a pediatric health-care system that is comprehensive, not fragmented; family-centered, not dominated by medical and educational specialists; and accessible to all children. At the center is the primary pediatrician, providing a "medical home" that coordinates and individualizes care.

Over the years, this vision has become more than a dream. Dr. Sia's extraordinary skills as lobbyist, grantsman, and coalition-builder have made it a reality.

A FAMILY TRADITION OF CARING

Calvin Sia's empathy for children who have to struggle is rooted in his own experience. When he was growing up in Honolulu, his grandmother, a busy obstetrician working in an economically and culturally disadvantaged community, often talked to him about what she saw on her round of house calls. She taught him a great deal: about the importance of being part of a community; about responsibility to the less fortunate; about the multiple needs—not all of them strictly medical—of children in poor families.

Those early lessons were not lost on her grandson, who started a private pediatric practice in 1958 and rapidly made it a model of family-centered primary care—a true "medical home." Responsibility was shared with patients and family, prevention was given high priority, development regularly monitored, and medical care coordinated with educational and social services to meet the needs of the whole child.

Community outreach started early, as well. While working as a school physician at the Hawaii School for the Deaf and Blind, Dr. Sia became sensitive to the complex needs of disabled children and the importance of early intervention for normalizing development. Caring for abused and neglected children on the wards of the children's hospital showed him how parenting can go wrong. Listening to Dr. Henry Kempe, then a visiting professor at the University of Hawaii, made him see the connection between those abused children and some of the lonely, impoverished young mothers he saw at the maternity hospital. He became an early disciple of Kempe's theories on the origins of abuse in inadequate parenting and the need for early, supportive intervention. By becoming active in the local medical and pediatric societies and serving on the hospital board, he began to learn how to work the political levers that can bring about change.

TRIAL RUN: PROGRAMS TO PREVENT CHILD ABUSE

In 1969, Hawaii's Commission on Children and Youth asked Dr. Sia to chair a committee to study the legal aspects of child abuse. He learned a valuable lesson in the process: Legal reforms don't necessarily lead to preventive programs. Many would-be reformers throw up their hands and quit when that realization sinks in; Calvin Sia did something more productive. He got a grant.

As he tells the story, "Fortunately, in 1971 I was appointed to the advisory council of the National Institute of Child Health and Development, and I found out that the Children's Bureau gave out demonstration grants. I applied and got some money in 1974 to establish a prevention program and a family stress center. It was a total program on the model Dr. Kempe had used, including early identification of families at risk and the use of home visitors to prevent abuse by providing support to disadvantaged young mothers.

"I'd seen single mothers, many of them teenagers, some of them recent immigrants without family supports, who just didn't bond with their babies. We'd hear them say

things like, 'this baby is ugly,' and we knew their babies were in real danger. We set up a program to screen maternity patients and identify the ones who were stressed and unsupported. We offered those mothers the help of a home visitor—a layperson we trained and supervised, not a psychiatric nurse or social worker—who would be an uncritical friend. The home visitors helped new mothers find housing and transportation, connected the families to medical care and social services, and stayed alert for signs of developmental problems in the infant, where early intervention could be crucial."

The original project became the Hawaii Family Stress Center located on the grounds of the Kapiolani Medical Center for Women and Children. Additional grants led to the development of similar projects on four neighbor islands, as well.

THINKING BIGGER, BUILDING BRIDGES

Demonstration programs in child abuse prevention were only a fragmentary response to the needs of Hawaii's children. So, when Hawaii's chapter of the American Academy of Pediatrics won the Wyeth award for an outstanding small chapter in 1976, Chapter Chairman Sia had a good use for the $1,500 prize. "I hired health planner Gail Breakey," he recalls, "and we put together a coalition to write a comprehensive health plan for children, from birth through adolescence." The Hawaii Child Health Plan was a forward-looking, systems approach to meeting the needs of a community's children—the first of its kind in the country.

The first dividend from the effort was the coalition Dr. Sia brought together to work out the plan. It included representatives of the medical school, the Hawaii Medical Association, the Department of Health, child advocates from the public and private sectors, and local pediatricians. Their collaborative efforts forged a broad base of support for the plan—and a shared vision for the future.

Ambitious schemes like the Child Health Plan are easier to write than to put into practice. The legislative climate was not hospitable to initiatives of this kind in 1979, when the plan was completed, but Calvin Sia is a patient man. The coalition he built and continued to nurture was in place when times were riper.

HEALTHY START AND THE MEDICAL HOME

By the end of the 1970s, all the major elements in Dr. Sia's vision were present:

In his own practice, a commitment to caring for the whole child and a concept of the pediatrician as advocate and coordinator of services.

From his work with deaf, learning disabled, and disadvantaged children, an awareness that early intervention and multidisciplinary approaches were needed to prevent poor outcomes.

From working with school health programs, knowledge that a system of care needs a home base. Schools were providing that base for older children, but children from birth to 5 years weren't being reached.

Taken together, these elements added up to what Dr. Sia calls the "medical home." It was, he said, "nothing new," simply the direct outgrowth of everything pediatrics ought to be, made available to all the community's children.

In 1984, when federal funding cuts gutted the family stress center programs, Dr. Sia helped convince the state legislature to fund a demonstration project that added the medical home concept to the prevention of child abuse. As with the family stress centers, the idea was to support new parents under stress and to continue that support by providing a medical home for the developing infant and child. Eventually, the demonstration project grew into Hawaii's Project Healthy Start, a comprehensive early intervention and child abuse prevention program that the Hawaii legislature funded this past year at a level of $3.4 million annually statewide.

Gail Breakey says of this evolution, "Dr. Sia has a unique sense of timing. He pulls people together at the right time, when there are resources available and a prevailing theme at the national level that will support what we need to do locally. He did that with child abuse, and now he's doing it with early intervention for children with developmental disabilities. Now PL 99-457, with its mandate for early intervention and prevention services, has provided a forum for doing what Cal has advocated for 15 years."

GETTING PEDIATRICIANS INVOLVED

The medical home concept asks a great deal of pediatricians. They must learn to be case managers, knowledgeable about available social services and able to coordinate care with a variety of providers. They must function as team members, collaborating with non-medical professionals. And they must concentrate on prevention and wellness. These crucial roles are time-consuming and—all too often—not reimbursed. Dr. Sia has tackled the problem in familiar ways:

He obtained a federal SPRANS (Special Projects of Regional and National Significance) grant from the Bureau of Maternal and Child Health to facilitate physician involvement in prevention and treatment services for Healthy Start children.

He used the grant to set up the Physician Involvement Project (PIP) in 1986, and hired Margo Peter, an educational psychologist with a strong commitment to early intervention strategies, to manage it. The project coordinated a lobbying effort that tackled the reimbursement problem head on and developed a continuing medical education (CME) curriculum designed to bring pediatricians into the system.

With reimbursement, the goal was to increase Medicaid payments for the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. The basic problem was that the Medicaid reimbursement of $17 was inadequate, and few doctors were participating. Using the support network he had established to work out the Child Health Plan, Dr. Sia and his allies persuaded the legislature to increase the reimbursement, first to $40 and recently to $95.

The next step was to extend private health insurance coverage. Dr. Sia and colleagues got the legislature to pass the Child Health Incentives Reform Plan (CHIRP) that requires private insurance policies to include health supervision coverage for children from birth through 5 years. Currently, the legislature is developing "gap group" insurance, providing a state insurance pool that will cover uninsured children.

FINDING CASE MANAGERS, EDUCATING PEDIATRICIANS

Case management presents another dilemma, since this vital function is time-consuming and not reimbursed. This year, Dr. Sia found a way to delegate some of the responsibilities, at least for many families: He sought a "Healthy Tomorrows" grant—awarded to innovative programs by the AAP and the Bureau of Maternal and Child Health—to support case management services for Hawaii's large immigrant population. Pediatricians caring for children in the defined group can make a single phone call to a project case manager, who will coordinate care for children at risk of abuse or neglect or in need of special services.

Sensitizing pediatricians to the roles the medical home demands is an even more complex issue. To address it, Dr. Sia and Margo Peter of PIP devised a CME curriculum to update pediatricians on the "new morbidity" and introduce them to the concept of a medical home.

"It works best with small groups," Peter says, "so we started on the neighbor islands where there may be only 12 pediatricians on the whole island. Dr. Sia does the advance work. He knows all the local doctors and they know him; he's been president of the state medical society and chairman of the Hawaii chapter of the AAP.

"We invite all the early intervention service providers on the island to come and meet with the pediatricians. Initially, there's a lot of suspicion; typically, these people have never talked to each other before. But when they get together, they find out that they're all on the same side. Later on in the course, when we focus on the family of the child with special needs, we have a parent serve as the coteacher."

So far, about 50 of Hawaii's 120 pediatricians have gone through the course. The funding is scheduled to expire in September, but Margo Peter knows that Dr. Sia somehow will find a way to continue the program: "It's very important to him to leave a legacy that says, Cal Sia made a difference to children."

THE LATEST CRUSADE PEDIATRIC EMERGENCY CARE

In the 1970s, when Dr. Sia was president of the state medical society, the concept of a network of emergency medical services—911 numbers, emergency medical technicians, mobile intensive care units, and so on—came into its own. "Hawaii created a system of adult services that was a model," Dr. Sia says, "but it was not suitable for the special needs of children. I felt we should be doing something for children, too." Pediatric emergency medicine became his crusade for the 1980s.

He knew that pediatric emergency services would have to be:

Conceived as an integral part of a system of pediatric care;

Supported by a core group of pediatricians who specialize in emergency care; and

Initiated with federally funded demonstration projects.

Dr. Sia began by joining the AAP's fledgling section on pediatric emergency medicine. "He was our mentor and guide," recalls Dr. Martha Bushore, "wise in the processes of the organization as we younger members were not. This is a hospital-based specialty, and it was very rare then for a private practitioner like Dr. Sia to care about promoting it. But he was always there, at the spring and fall meetings. He'd usually been traveling eight to ten hours across the Pacific, but he was always cheerful and energetic.

"He was very modestly aware that this wasn't his specialty, and he'd listen quietly—even when we were on the wrong track. When he couldn't bear it any more, he would make a profound comment that totally changed the discussion and started it off in a new direction. He guided us through the process of moving from being an AAP section to being a committee, with full staff

support. I was the chairman, but he was always there, whispering directions."

Pediatric emergency care, as Calvin Sia conceives it, is not limited to emergency rooms. It begins with primary-care providers offering safety education and anticipatory guidance for dealing with emergencies. It includes teaching physicians, nurses, parents, teachers, coaches, and public safety personnel how to access the emergency system. It provides personnel to intervene promptly when accidents occur and transport patients to centers for definitive care. It offers rehabilitation and reconnects the child and family to the medical home when the emergency is over.

Embodying these concepts require carefully drafted federal legislation to fund demonstration projects. Such legislation is now on the books. Dr. Sia and Jose Lee, the project director of the Hawaii Medical Association's adult emergency medical services grant, drafted a bill and sought the expertise of Hawaii's Senator Daniel Inouye to guide it through the legislative process. Concurrently, Dr. Sia mobilized the support of the AAP's new Committee on Pediatric Emergency Medicine and its Department of Government Liaison in Washington. Sen. Inouye introduced the bill and, in 1985, it became law. Initially, it provided $2 million a year for three years for demonstration projects in 12 states; now 16 states are included, and funding has steadily grown. The program comes up for renewal next year.

TAKING THE SHOW ON THE ROAD

In the 1990s, Hawaii is a leader in innovative pediatric health care. A large share of the credit for that goes to Calvin Sia. Now he wants to share what has been learned in his small, island state with leaders around the country. At a recent meeting of pediatricians and educators in Washington, DC, sponsored jointly by the Bureau of Maternal and Child Health, the AAP, and the American Association of Colleges for Teacher Education, Dr. Sia talked about what is needed: "Everyone looks to Uncle Sam for funding, but funding isn't the only problem. We need to learn how to work together on the local level."

From Washington, he took his show on the road to Nebraska and points West before heading back to Honolulu. "I'm interested in the next generation," he says, "because I'm going to be a grandfather this August. The next generation deserves the best, and that's why we're doing the things we're doing."

FOUR GENERATIONS OF DOCTORS

Born in Beijing, China, Calvin Sia was 12 when he arrived in Honolulu in 1939 with his family, fleeing from the Japanese occupation of their homeland. Young Calvin was not entirely a stranger to American culture. His mother had been born in Hawaii, where her parents were pillars of Honolulu's Chinese community. His father had studied medicine at Western Reserve in Cleveland.

In the new life in Honolulu, money was not abundant but family support made everything possible. Army service and the GI bill helped Calvin Sia go to Dartmouth College. Family tradition, hard work, and the strong support and encouragement of his inspiring new bride Katharine sent him to his father's medical school. A second stint in the Army provided some financial respite for him, his wife, and baby son Richard while he did his internship at Beaumont Army Hospital in Texas, followed by a pediatric residency at Kauikeolani Children's Hospital in Honolulu.

When he entered practice in 1958, he became the third generation of his family to pursue a career in medicine. It is a proud legacy, and Calvin Sia describes it with gratitude.

GRANDPARENTS

"Both of my mother's parents were doctors. It was very unusual for a woman to be a doctor at that time, especially in China, and especially a woman like my grandmother, Kong Tai Heong, who was an orphan. But she was taken over by the missionary school and was so smart that she competed and got into medical school, where she met my grandfather, Li Khai Fai. They had heard that Honolulu needed doctors, so they went to Hawaii in 1896, at a time when most Chinese were laborers. In fact, my grandfather worked as a laborer in a tobacco warehouse at first.

"They passed an examination in western medicine and became the first Chinese doctors in Honolulu, where they practiced for 50 years. My grandmother delivered over 6,000 babies, and grandfather was a family physician. They raised and educated nine children, three of whom became doctors.

"Grandpa and grandmother were my models for community service. They founded the Chinese church in Honolulu, a Chinese school, and a hospital. My grandfather was a man of great integrity; in the early years of his practice he diagnosed a case of bubonic plague in a Chinese patient and reported it to the health authorities—even though he knew that the 'sanitary fires' that were the only available public health measure would probably destroy Chinatown and his practice with it. That's just what happened; but he did the right thing."

FATHER

"My father, Richard Ho Ping Sia, was educated in a missionary college in China and came to the United States in 1914 to study medicine in Cleveland. He interned at Cleveland City Hospital at the height of the 1918 flu epidemic, became interested in infectious diseases, and got a fellowship at the Rockefeller Institute in New York. That's when he met my mother.

"After he finished his research in pneumococcus at Rockefeller Institute, my parents went back to Beijing, where my father was on the medical college faculty, and they raised a family—my older and younger sisters, and me. When we came to Honolulu, my father started a new career as a lecturer in bacteriology at the University of Hawaii. Then, in 1946, he started a private practice. He retired in 1969, after 50 years in medicine."

THE NEXT GENERATION

"Katharine, who has been my wife since 1951, has been the pillar of strength in our family life. Born and raised in Hong Kong, she has been the 'backbone and brains' in raising our family and managing our home. She has been through the trials and tribulations of medical school, residency training, and early office practice days, a life very different from her own family background of business. Her support allowed me time for all the meetings and trips to the mainland that my child advocacy involved; without her understanding, many of these projects could not have been accomplished. She has truly nurtured the entire family's growth.

"My wife and I didn't want to force any of our sons into medicine. Richard, a Harvard graduate, is a journalist who currently covers the Pentagon for the *Baltimore Sun*. Jeffrey, a graduate of Brown University, is a lawyer, practicing in Honolulu. But it does look like there's going to be a fourth generation in medicine after all: Michael, a Dartmouth graduate, is getting his medical degree at Case Western Reserve School of Medicine this year. He plans to go into a pediatric residency at Stanford University."

PREACHING WHAT HE PRACTICES

Calvin Sia's pediatric practice has been a medical home for generations of Honolulu children. Lorraine Yuen, RN, a pediatric nurse practitioner who has been with Dr. Sia from the beginning, calls the children they see today "our grandpatients."

It's a busy, satisfying, family-centered, primary-care practice: health supervision, immunizations, camp physicals, otitis, asthma; a strong interest in development; a commitment to prevention; time to talk over behavioral and school problems and to connect families with community resources.

The working day starts before Dr. Sia and his partner, Wallace Matthew, MD, arrive at the office. They both take "welcome calls" at home, from 7 to 7:45 a.m. Office hours run from 9:30 to noon and 2 to 4 p.m. on weekdays, 8 a.m. to noon on Saturday. Afternoon hours can be extended for patients who need time to talk over problems. The doctors fit community activities around those hours. "I budget my time," Dr. Sia says, in an understatement. He makes a major effort to get home for family dinner, and rarely misses his weekly tennis workout.

The practice is busy but manageable. Lorraine Yuen keeps track of "about 1,000 ledgers, with two or three children on each one." Office management and telephone traige and follow-up is the province of Nurse Yuen and Dr. Sia's other long-time nurse practitioner, Alice Char, RN. "All the doctors have to do is see patients," Yuen says. "We take care of everything else." Two more full-time assistants and one part-timer complete the office staff.

Dr. Matthews joined the practice nine years ago, migrating from Harvard to Hawaii so that he and his Hawaiian-born wife, a neonatologist, could bring up their children in a family atmosphere. "Without my understanding partner," Dr. Sia says with gratitude, "I couldn't possibly do all the things I do."

Dr. Matthews and Dr. Sia bridge the generation gap painlessly, treating each others' patients when necessary and rotating evening and weekend coverage. Because both doctors take the time for extensive parent eduation and are readily available by phone to answer questions, night calls are quite rare.

Like Dr. Sia, Dr. Matthews doesn't confine his pediatric practice to the office: "We have a back and forth conservation with the community." Calvin Sia has been holding that kind of conversation all his life. It has shaped his vision.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,965th day that Terry Anderson has been held in captivity in Beirut.

SENATE PASSAGE OF CAMPAIGN FINANCE REFORM

● Mr. ROCKEFELLER. Mr. President, the U.S. Senate took a bold stand last night for reform and good

government by passing genuine, comprehensive campaign finance reform by a vote of 59 to 40. I was proud to vote for this measure.

Our bill, while not perfect, is a critical measure to control the money chase, ban honoraria, close loopholes, curb the appearances of special interests, and begin to restore the public confidence in the U.S. Senate.

The Senate, under Democratic leadership, is cleaning our own house. We have adopted a bill which will dramatically change the way Senate campaigns are run. From the beginning, Democrats have sought a bipartisan package and we have accepted some good ideas from Republicans.

The Senate has played a key role in building momentum and showing the way to reform. It is an historic effort to improve our political system.

As someone who cares deeply about the U.S. Senate and public service, I am proud to support a campaign reform measure that will help to usher in welcome change and restore public confidence. ●

TRIBUTE TO WILBUR S. SMITH

Mr. THURMOND. Mr. President, I rise today to pay tribute to Wilbur S. Smith, a distinguished South Carolinian who passed away last week. Mr. Smith was a well-known transportation engineer and businessman, whose interest in his work was surpassed only by his devotion to his family and friends. He was a man of integrity and dedication, and his loss is mourned by all who knew him.

Mr. Smith graduated from the University of South Carolina in 1932 with a degree in electrical engineering. During the next 10 years, he worked for the South Carolina Department of Highways, rising from a job stamping license tags to a position as the State's first traffic engineer.

He furthered his education at Harvard and Yale and founded his own business while teaching at Yale in the early 1950's. His firm, Wilbur Smith and Associates, soon grew into a large international concern, with offices in 28 cities in the U.S. and 13 cities abroad.

Mr. Smith was a pioneer in the field of traffic engineering, playing an important role in the design of many major projects throughout our country and the world. The interstate highway system, the Wando Terminal at the Port of Charleston and the Chesapeake Bay Bridge Tunnel are just a few examples of his craftsmanship. He was well-known and respected by his peers, and was recognized by engineering societies and business organizations around the world. He was also named to the South Carolina Business Hall of Fame in May of this year.

Mr. Smith's business took him away from South Carolina frequently. In great demand as a writer and lecturer, he traveled extensively throughout the United States and abroad. He completed projects in Hong Kong, Australia, and the United Kingdom, but he always knew there was "no place like home."

In spite of his rigorous travel schedule, Mr. Smith always maintained an active interest in the affairs of the Palmetto State. He supported many civic organizations and was particularly interested in the preservation of historic properties like the Mills House in Columbia.

Famous for his engineering skill, Wilbur Smith was just as renowned for his good nature and modest demeanor. Though his schedule was demanding and his business interest were enormous, he maintained an office in Columbia and always made time to chat with friends or offer support and encouragement.

Wilbur Smith was a loving husband, devoted father and self-proclaimed family man all his life. He exhibited those qualities which we Americans proudly claim as our own—energy, initiative, and progressive thinking—but he tempered them with a very personal blend of kindness, compassion and an unfailing regard for the welfare of his fellow man.

Mr. President, Wilbur S. Smith was a proud South Carolinian and a great American. He will be sorely missed, not only by our State, but by the millions throughout the world who benefited from his life's work. Even now, the Wilbur S. Smith Co. continues work on many important projects, including a tunnel linking England to France under the English Channel.

Nancy joins me in extending our condolences to Wilbur's lovely wife, Sarah Bolick Smith and his daughters, Mrs. Sally Smith Cahalan, Miss Margaret Smith, and Dr. Stephanie Smith-Phillips. I ask unanimous consent that two articles from the State newspaper in Columbia be inserted in the RECORD after my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State, July 30, 1990]

COLUMBIAN'S WORLD

In a sense, Wilbur S. Smith was Columbia gift to the world, but he never really left home and he never stopped serving his city and his state.

The engineering and consulting firm he founded here in 1952 specialized in matters dealing with transportation—highways, airports, seaports, subways, railroads, bridges, parking facilities, resorts, etc.

Mr. Smith's interest in transportation developed early, his first job after getting his master's degree from the University of South Carolina in 1933 being with the S.C. Highway Department. Later following studies in the developing field of traffic engineering at Harvard and Yale, he became one of the early practitioners of that art.

Wilbur Smith and Associates went international in 1961 and over the years served clients in more than 80 countries on all continents expect Antarctica. One of its current projects is the tunnel under the English Channel.

Not only did Mr. Smith activity manage his firm in a hands-on manner until his retirement in 1983, but he also wrote and lectured, participated in professional organizations worldwide and took part in many educational and civic endeavors nearer home.

Most appropriately, he was named to the S.C. Business Hall of Fame in May. Most timely too, for Wilbur Smith died Wednesday at 78. The world moves better because he took the path he did.

[From the State, July 26, 1990]

WILBUR S. SMITH, RENOWNED TRANSPORTATION EXPERT, DIES

(By Fred Monk)

International transportation pioneer Wilbur S. Smith, a man whose work moved billions of people by land, air and sea, died Wednesday in his native Columbia. He was 78.

Smith was an innovator in modern transportation systems, and his engineering knowledge took him and the company he founded, Wilbur Smith & Associates, to every continent except Antarctica.

His work traversed the United States from the design and development of major portions of the interstate highway system to the New Jersey Turnpike, the Chesapeake Bay Bridge Tunnel and the mass transit system in Washington, DC.

Until his death, the lanky University of South Carolina engineering graduate was asked for advice on systems that move our society. He counseled the National Aeronautics and Space Administration on how to implement the commercialization of space.

Today, the company he developed is working on projects ranging from the Chunnel, the English Channel between Great Britain and France, to road design in the People's Republic of China. The firm, now Wilbur Smith Associates, has offices in 28 cities in the United States and 13 foreign locations.

Smith merged his privately held company into Armco Inc., the Ohio-based steel producer, in 1981. He retired as chairman of the Armco subsidiary in 1983 and then continued a consulting relationship. The firm later was acquired by employees of the company, who number about 750.

And while he would travel several hundred thousand miles each year, he cherished the time he could bird hunt at his farm in Kingstree or be at his other properties, including Mansfield rice plantation near Georgetown and farms in Hodges and Branchville.

In later years, he was involved in a number of real estate development projects, notably Wild Dunes Resort north of Charleston. But, he also got involved in smaller projects, such as the Confederate Printing Plant in Columbia.

While Smith was involved in numerous investments, operating Wilbur S. Smith Management Co. in Columbia, he maintained an outwardly modest lifestyle.

Smith gathered accolades for his works around the world. He has been honored by numerous engineering societies and other honorary societies in the United States and abroad. In May, he was inducted into the South Carolina Business Hall of Fame.

A graduate of Columbia High School, he was graduated from the University of South Carolina magna cum laude with a bachelor's degree in electrical engineering in 1932. He

earned a master's degree in the subject a year later at USC.

A humble man, he began his career in a humble setting, working for the S.C. Department of Highways stamping metal driver's license tags. He worked for the Highway Department for 10 years and became the first state traffic engineer.

He studied the developing science of traffic engineering at Harvard and Yale Universities, and while teaching at Yale founded Wilbur S. Smith Associates in 1952.

But Smith never lost his roots. While maintaining a principal office in New Haven, Conn., he moved the company's headquarters to Columbia. He and his brother, James, spearheaded the growth of the firm across the country.

In 1961, he took the firm international, working on traffic studies for London and Hong Kong. The firm went on to design transportation systems for a number of developing countries.

At times, Smith handled 100 projects and traveled 250,000 miles a year to review them. He was a licensed professional engineer in 50 States, the United Kingdom, Australia and Hong Kong.

"An executive with an international firm was telling me today that there's not a transportation project anywhere in the world that did not have his label on it or his touch," said Robert A. "Bud" Hubbard, chairman of Wilbur Smith Asociates, a student of Smith's at Yale in 1954.

Funeral services will be held at noon on Friday at Shandon Presbyterian Church in Columbia with burial at Greenlawn Cemetery.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

The family will receive visitors at the Smith home at 1630 Kathwood Drive this afternoon and evening.

Born Sept. 6, 1911, Smith was the son of the late George Wilbur and Rebecca Stevenson Smith.

He is survived by his widow, Sarah Bolick Smith; three daughters, Mrs. Sally Smith Cahalan of Marietta, Pa., Margaret "Peggy" Smith of Washington, D.C., and Dr. Stephanie Smith-Phillips of Charleston; and three grandchildren.

Memorials may be made to Shandon Presbyterian Church of Columbia, Presbyterian College in Clinton, the College of Engineering at the University of South Carolina and the Duke Comprehensive Cancer Center at Duke University.

Federal Highway Administrator Dr. Tom Larson, a friend and colleague of Smith's for 30 years, said his death left him "immensely saddened. I talked with him just two weeks ago, and while he said he wasn't feeling well, he was making plans for the future.

"The transportation industry has lost one of its true giants. He's truly a global figure. He was well-known among transportation people in tralia, Great Britain and elsewhere, as he was in Columbia," Larson said.

One of Smith's closest friends was Ira Koger, chairman of Koger Properties in Jacksonville, FL, on whose board Smith served as head of the executive and financial committees.

"Wilbur's a loss because he's one of those great people," said Koger, who met Smith while attending law school at USC in the 1930s. The two would become among the most active sponsors for USC programs.

Jenny Dreher, a long-time friend of Smith's and a commissioner of the Richland County Historical Preservation Society, said that Smith's interest helped preserve the Mills House in Columbia.

She said the success of that renovation led to others in the Midlands area.

One of Mrs. Dreber's most vivid memories is of the Island of Delos, sitting in the ruins of a Greek amphitheater totally lit by candles as Margaret Mead spoke to a gathering of Ekisticians, followers of the Greek architect Constantine A. Doxiadus' theories of human settlements.

"I looked across, and there was Wilbur," she said, adding that Smith and Doxiadus were friends who worked together in Hong Kong. "It was so nice to see him there with people like Margaret Mead and Buckminister Fuller.

"He's a hometown boy, who's done a lot for his community."

Don Weinert, executive director of the National Society of Professional Engineers, said: "He is one of the most consummate professionals I've ever dealt with. The profession will be visibly weakened by his absence."

Smith was a principal consultant for the Wando terminal at the port of Charleston, said Don Welch, executive director for the State Ports Authority.

Welch said the single characteristic of Smith's that stands out in his mind was Smith's untiring energy.

Former South Carolina Gov. Robert E. McNair said "an era has ended with the passing of Wilbur Smith. He was a highly respected South Carolinian. But he also had the highest reputation and was recognized as a preeminent leader in his field worldwide.

"He was an astute businessman, one whose counsel I sought often, someone who made things happen. I regarded him highly and he will be missed."

Larry Dahms, the executive director of the metropolitan Transportation Commission of the San Francisco Bay Area, said he knew Smith best as the chairman of the Eno Foundation for Transportation Inc.

"The amazing thing about Wilbur Smith was how he just kept forging ahead. He was tall in physical stature and certainly much taller in being almost the leader in transportation thinking the past few decades. It's an incredible loss in the transportation field," Dahms said.

Former South Carolina Gov. James B. Edwards, now president of the Medical University of South Carolina in Charleston, had talked on the telephone with Smith twice in recent days.

"South Carolina has lost a native son who was a tremendous man," Edwards said. "He was a businessman without equal and a devoted family man."

Many people didn't know what an outstanding person Smith was, Edwards said, "because he wasn't the type person to blow his own horn."

"My life has been enriched for having known him, and his death is a great loss to the state," Edwards said.

PROFILE

Born: Sept. 6, 1911, in Columbia.

Education: Columbia High School, 1928; bachelor's degree, magna cum laude, electrical engineering, University of South Carolina, 1932; master's degree, USC, 1933; studied traffic engineering at Yale and Harvard.

Career: Started at S.C. highway department stamping driver's license tags. Worked for the department 10 years and became state's first highway engineer. Founded Wilbur Smith and Associates in 1952; was chairman of the board until he retired in 1983.

WORLD CLASS SCIENTIFIC PROJECTS

Mr. SIMON. Mr. President, the Senate is taking up the 1991 energy and water appropriations bill today and I want to praise Senator JOHNSTON and the Appropriations Committee for putting together a good bill that helps us meet many of our infrastructure needs and for keeping this country at the forefront of energy research and development. There are some concerns that I have that I believe can be worked out in conference committee with the House, but overall and this is an excellent bill and I support it.

This bill contains funding for world class scientific research projects taking place at Argonne National Laboratory and at Fermi National Accelerator Laboratory, including the advanced photon source, the integral fast reactor, magnetic levitation, and the Fermi particle accelerator.

Mr. President, basic scientific research is an investment in our economic, energy, and environmental future. The advanced photon source at Argonne will generate a superintense beam of light that will allow researchers to make great strides in the area of materials science. This basic research holds great promise for electronics, computers, ceramics, pharmaceuticals, and other vital U.S. industries. The integral fast reactor is the Nation's leading nuclear research project focusing on reactor safety and minimizing nuclear waste. The magnetic levitation project seeks to keep the United States at the forefront in high-speed transportation—an area where I fear we are falling behind.

Mr. President, there is an educational component of this bill that I am very proud of. This bill shifts $5 million within the Department of Energy's budget to allow the Department to move forward with its expanding education programs. The Department's plans include a $2 million grant for the Academy for Mathematics and Science Teachers of Chicago, a partnership which includes the Argonne and Fermi Laboratories, the Chicago public schools, area universities, the State of Illinois, and the private sector.

The academy is designed to completely overhaul math and science instruction in Chicago by providing intensive training to more than 15,000 teachers in Chicago over a 5-year period. This project is a model effort to tap resources available in our Federal laboritories to increase the supply of scientists and engineers and improve scientific literacy.

Funds and authority for this project were not included in the House version of this bill. Several weeks ago I con-

tacted my colleague from Louisiana [Mr. JOHNSTON] about this exclusion, and I would like to thank him for making the changes that will save this important program. This is exactly the type of investment that we should be making and I am pleased to see the Department of Energy moving in this direction.

Mr. President, as I said, this bill allows us to make some needed investments in our future and I urge passage.

RADIATION EXPOSURE COMPENSATION ACT

Mr. BINGAMAN. Mr. President, I rise today in support of the substitute offered by my colleague from Utah to H.R. 2372, the Radiation Exposure Compensation Act. I am pleased to cosponsor this legislation to provide compensation to uranium miners in New Mexico, Arizona, Colorado, Wyoming, and Utah.

The health effects of uranium mining in the fifties and sixties are the single greatest concern of many former uranium miners and their family and friends.

During the period of 1947 to 1961, the Federal Government controlled all aspects of the production of nuclear fuel. One of these aspects was the mining of uranium in New Mexico and Colorado, Arizona and Utah. Even though the Federal Government had adequate warning of the hazards involved in uranium mining, these miners, many of whom were native Americans, were sent into inadequately ventilated mines with virtually no instruction regarding the dangers of ionizing radiation. These individuals had no idea of those dangers, and consequently, many miners inhaled radon particles that eventually yielded substantial doses of ionizing radiation. As a result, these miners have a substantially elevated cancer rate and incidence of respiratory disease.

During most of these years, the sole purchaser and beneficiary of the uranium was the U.S. Government for its nuclear testing program.

The U.S. Public Health Service conducted studies of Navajo miners from 1949 through the 1960's to assess the dangers of radiation exposure. By 1951, the Public Health Service and the Atomic Energy Commission were aware of the hazards and knew much about how to alleviate the problem.

It was not until mid-1971, however, that the Federal Government established and fully implemented mine safety standards. Lung cancer and other serious respiratory diseases previously unknown to Navajos became prominent among Navajo miners. As the Public Health Service study and many subsequent studies have found, the injuries suffered by uranium miners were caused by radiation and radioactive dust particles.

So far, affected miners have gone largely uncompensated. Due to a lack of access to legal advice, most miners have been unable to obtain benefits under the State workmen's compensation laws. For many, the statute of limitations had expired before they became aware of those remedies.

I am pleased Congress is finally taking action today to provide appropriate redress for the miners. This legislation will create a compensation program to make compassionate payments to these victims.

As a result of a hearing I chaired on this issue in Shiprock, NM earlier this year, I have added a provision to the bill to require a comprehensive report on the incidence of radiation related respiratory diseases in uranium miners employed in uranium mines that are located off Indian reservations. The legislation we consider today only covers those mines on Indian reservations. I want to ensure that we know of any other uranium miners that may have been afflicted with the same diseases so that they may be included in future legislation.

Mr. President, I want to give special recognition and thanks to Stuart Udall, former Secretary of the Interior, Lynda Taylor of Southwest Research and Information Center, and Phil Harrison of the Uranium Miners Victims Committee for their tireless efforts over the past decade on behalf of uranium miners. Their commitment has helped make this legislation possible.

OIL POLLUTION COMPENSATION AND LIABILITY ACT

Mr. GRAHAM. Mr. President, I rise today to express my unqualified support for the oilspill legislation before us. Let me begin by recognizing the superb efforts of several colleagues who made this bill a reality. Senators BAUCUS, MITCHELL, and CHAFEE led a strong bipartisan contingent from the Environment Committee. Senators HOLLINGS, JOHN KERRY, DANFORTH, and STEVENS did an equally outstanding job at bringing together the interests of the Commerce Committee.

As the recent 500,000 gallon spill off Galveston, TX vividly shows, oil can do irreparable damage to the fragile marine environment. Such damage is only exacerbated when our response is slow and incomplete. Spills like this one, as well as the *Mega Borg* and the *Exxon Valdez*, point to the glaring holes in our ability to respond rapidly and effectively to oilspills.

This legislation will go far to correct these problems. Double hulls will help prevent spills in the first place. Better contingency planning and preparedness on the part of shippers and the Federal, State and local government will help us limit damage that might still occur. Equally important, we are sending a clear message to the oil industry that they will have to pay for any harm they cause, so they had better be prepared.

I am particularly heartened that the conferees preserved the right of States to apply their own laws above and beyond the liability imposed under this bill: Thousands of ships pass close to Florida each year, the overwhelming majority of which are destined for ports other than those in our State. The risks of a grounding—the *Exxon Valdez* scenario—were driven home recently when we had not one but three ships ground on the Florida reef within 3 months last winter.

Had those ships spilled oil, the damage to the reefs and the Florida Bay—some of the most ecologically sensitive areas in the entire world—would have been incalculable. Our State would, without doubt, seek to impose full liability on those responsible.

Other measures can and should be taken to minimize the risk of oil pollution to the environment. The bill I introduced establishing a marine sanctuary to protect the Keys coral reef would among other things, prohibit tanker traffic near this vulnerable ecosystem.

Another important weapon is prohibiting offshore oil development in ecologically sensitive areas. I was encouraged by the President's decision to postpone offshore drilling near the southwest coast of Florida for 10 years, but I continue to believe that nothing less than a permanent ban is appropriate. That is why Senator MACK and I have introduced legislation to that effect.

We have also requested the Appropriations Committee to impose a 1-year moratorium on offshore exploration in the balance of the eastern Gulf of Mexico.

Mr. President, we can and must continue to attack this problem from both sides: prevention and mitigation. We must implement mechanisms to reduce to the minimum the risk of oilspills, and we must have in place the weapons to fight those spills that do occur. This legislation will go a long way in achieving both of those goals. It is thus with genuine enthusiasm that I express my wholehearted support for the Oil Spill Liability and Compensation Act.

SENATORIAL ELECTION CAMPAIGN ACT

Mr. McCAIN. Mr. President, last night I voted in favor of the campaign reform bill which passed the Senate on a 59 to 40 vote, and, while I supported it, I want to state for the

record my very deep concerns over the bill and why I voted for it.

The bill is seriously flawed in many respects. I voted for it, nevertheless, because I believe it is important for campaign reform to proceed, and I hope that the glaring deficiencies in the bill can be corrected before it is presented to the Senate again or to the President for signing. I felt it was more appropriate to let the process proceed in the hope of improving the bill than to kill it at this stage because of its shortcomings.

Does the bill make positive changes? Absolutely. The Democrats acquiescence in the Republican demand for the end of political action committees [PAC's] is a major step forward. I have been calling for the end to PAC's for years, and I appreciate the procedural fairness of Senator BOREN, the Democratic floor manager, in permitting this issue to be raised. During the last Congress I had an amendment to abolish PAC's, but the then majority leader insisted on filing repeated cloture petitions to keep Republicans from offering their amendments. If cloture had been invoked, the PAC ban amendment could not even have been offered. That is why we Republicans defeated the cloture "gag rule" six times last Congress.

While I have complaints about this bill, I have no complaints about the process used to debate it. Senators BOREN and MITCHELL were procedurally fair, and this is a huge change from earlier years. They deserve credit for it.

This point deserves attention, Mr. President, because I have greatly resented the personal attacks on me and other Senators by Common Cause when they said I have voted to "kill" and "filibuster" campaign reform legislation in 1988. That is a lie. If then Majority Leader BYRD had proceeded in such a way as to allow Senators to offer, debate and vote on amendments, we could have passed reform legislation 2 years ago. He never did. Instead he tried to use procedural gimmicks to choke off debate and preclude relevant amendments—like my PAC abolition amendment. He wanted to present a highly partisan, Democratic bill on a take it or leave it basis. Every bill should be subject to full debate and amendment. I have never filibustered a bill and never will, and the intentional mischaracterizations of Republican opposition to the cloture attempts last Congress is a sad and poor reflection on those who made them.

There are other positive changes in the bill the Senate just passed such as the ban on honoraria, the ban on incumbents using taxpayer financed mass mailings during their campaign year, reducing out-of-State interests, and making sure candidates have access to lowest unit broadcast rates.

Does the bill we just passed have faults? Absolutely. What bothers me the most is the hypocrisy in the bill, especially those provisions designed and retained solely to help out incumbents, especially Democratic incumbents.

For example, the Democratic bill makes a big deal out of restricting soft money expenditures by political parties. But the Democrats on a party line vote defeated an amendment to restrict labor union and nonprofit groups soft money activities. This is wrong. It is selective reform. It eliminates soft money expenditures that help Republicans, but protects soft money that helps Democrats. It is hypocrisy.

For example, the Democratic bill fails to keep union dues from being used for political purposes against the wishes of union members. But the Democrats on a party line vote defeated an amendment to correct this coercion and to legislatively implement the principle of the Supreme Court's Beck decision saying this should not be done. This is wrong. This is selective reform. It is a refusal to remedy a documented, abuse of special interest money just because it helps Democratic candidates. It is hypocrisy.

For example, the Democrats defeated an amendment I offered that would abolish the new $300,000 political slush funds they set up in their bill that can be used to help out only incumbents.

For example, the Democrats defeated an amendment I offered to ban rollover accounts—the huge political war chests built up, not to pay for campaign costs, but simply to intimidate possible challengers. And they defeated the amendment I offered that would have precluded incumbents from mixing campaign money with their official office accounts—a practice that helps only incumbents. This is wrong. It is selective reform. It is hypocrisy.

For example, the Democratic bill calls on the American taxpayer to finance congressional campaigns to the tune of about $150 million per year. I have serious reservations about asking the taxpayers to support yet another new Federal spending program, when we can't even agree to dent the incredible budget deficit we face.

The bills' spending limits concern me. I am not opposed in principle to spending limits, but I think the bipartisan Mitchell-Dole spending limit plan may have had greater advantages than the present bill. I am glad the Democratic sponsors have indicated a willingness to be flexible on this issue.

Mr. President, those of us who have been advocating campaign reform should be pleased that the process has begun. A bill has now passed the Senate and that is a big start. It is overdue. It still needs great and real improvement, however, to be true reform, and I hope that the same groups who have been demanding spending limits and taxpayer financing will now also demand that the bill's partisan hypocrisy be rooted out. I hope we can create a true reform bill we can all be proud of, rather than a partisan bill that the majority incumbents can take delight in.

Mr. President, I voted for this bill because it has some good provisions and because the process of reform must continue. But it has a long way to go to before it can withstand impartial scrutiny, or before President Bush will sign it. Let us now devote ourselves with all sincerity and let's stop posturing for partisan advantage and complete the work on a bill that will give the American people what they deserve—an exhaustive and true reform out of our campaign system.

RETIREMENT OF COL. DONALD W. WILLIAMS

Mr. MCCONNELL. Mr. President, today the Senate has been debating the Defense authorization bill and we have heard some lively discussions on our changing military. I would like to pause for a moment to draw the attention of my colleagues to an important change at Fort Knox: the retirement of Col. Donald W. Williams, chief of staff, Fort Knox, KY.

Don retired from the Army at the end of last month after dedicating three decades of distinguished service to our Nation. He has served in Europe and Vietnam and in the early 1960's he was commander, A Company, 5-33d Armor, 16th Armor Group at Fort Knox. I am pleased that part of Don's career has been spent in my State, and that he now will make Kentucky his home.

Don's vast experience and knowledge provided him with unique insights into the military and world events. As chief of staff, he has promoted and strengthened both Fort Knox and Kentucky. Mr. President, I can think of no other leader who cares so much for his country and community. Don is a remarkable man who impresses all with his intellect and warmth.

I am privileged and honored to have worked with Don during the past few years, and I would like to be the first to welcome the Williams family—Don, Betty Lou, David and Stephen—to civilian life in the Commonwealth.

I ask unanimous consent, Mr. President, that a copy of Colonel Williams' biography appear in the RECORD so that all my colleagues may share my praise of this outstanding American.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF COL. DONALD W. WILLIAMS, CHIEF OF STAFF, U.S. ARMY ARMOR CENTER AND FORT KNOX

Colonel Williams' troop assignments include service from January 1961 until April 1963 when he served as a tank platoon leader, company Executive Officer and Maintenance Officer in West Germany. In January 1964, he was Commander, A Co., 5-33rd Armor, 16th Armor Group, Fort Knox. He also served as Commander, HHC, 5-33rd Armor from October 1964 until June 1965. In June 1967, Colonel Williams received his third command with A Company, 1-69th Armor in Vienam. He served as Senior Advisor, 32nd Infantry Regiment, 21st ARVN Div, Republic of Vietnam. Colonel Williams served as Executive Officer, 1st Battalion, 64th Armor, 3rd Infantry Division, USAREUR from July 1975 to December 1976. In July 1978, he assumed his battalion command with the 4th Training Brigade and in February of 1980, Colonel Williams assumed the duties as the Deputy Brigade Commander of the 4th Training Brigade.

Colonel Williams' staff assignments include duties as G-1, Headquarters, USARV in Vietnam from July 1966 until January 1967. He was assigned to Fort Knox in November 1967 as an instructor with the Senior Officer Orientation Course. In July 1968, Colonel Williams was assigned as Assistant Professor, Department of Political Science, U.S. Air Force Academy. He served as Training Staff Officer, HQ, TRADOC, Fort Monroe, VA from July 1973 until June 1975. Colonel Williams was Chief, Policy and Doctrine Branch, ODCSOPS, HQ, USAREUR from December 1976 until April 1977. This was followed by serving as the Executive Officer, DCSOPS, HQ, USAREUR until June 1978. In July 1981, he reported for duty to the Army Staff as Action Officer, Strategy and Plans, DCSOPS and then served as Secretary, Joint Chiefs of Staff, OJCS from July 1982 until July 1985. Colonel Williams returned to Fort Knox in July 1985 to assume the duties as Director of Plans, Training and Mobilization which he held until assuming his current position as Chief of Staff in April 1987.

Colonel Williams graduated from the University of Massachusetts at Amherst in 1960 with a Bachelor of Arts Degree in Political Science. He completed the Armor Officer Basic Course in 1960 and the Armor Officer Advanced Course in 1966. In 1964, he earned his Master of Arts Degree in Political Science. Colonel Williams is also a 1973 graduate of the U.S. Army Command & General Staff College and a 1981 graduate of the U.S. Army War College, Carlisle Barracks, PA.

THE OIL POLLUTION ACT OF 1990

Mr. WARNER. Mr. President, I rise in support of the conference report to accompany H.R. 1465, the Oil Pollution Act of 1990. I was proud to serve as a Senate conferee on this important legislation, and to have been a cosponsor of S. 686, the Senate version of the oilspill liability legislation that was sent to conference.

Mr. President, it has been almost exactly 1 year since the Senate passed S. 686, by a unanimous vote of 99 to 0. At that time, the Senate acted quickly to respond to the most serious oilspill in this Nation's history—that of the tanker *Exxon Valdez* in Prince William Sound, Alaska. Since that time, we have experienced an extraordinary number of oilspills in many different parts of the country, including one less than a month ago right off the coast of the Commonwealth of Virginia in the Chesapeake Bay.

Mr. President, because of the excellent work of the Coast Guard and Virginia State officials, and admittedly, a lot of luck, the Chesapeake Bay, which serves as the habitat for thousands of species of fish and wildlife, dodged what could have been a tragic catastrophe.

We are all grateful that the results of the Chesapeake Bay spill were not more serious.

Mr. President, the oilspill liability legislation that we consider today would ensure that we do not have to rely on luck in the future to prevent the serious effects of an oilspill. The bill imposes rigorous new contingency planning requirements on areas and vessels, and requires the President to take charge of all major oilspills and to determine when cleanup is complete. In addition, the bill imposes liability limits stricter than the international scheme would provide, while allowing all States to maintain their own liability laws. Finally, the bill calls for a phase-in of double hulls on all tankers in U.S. waters and a $1 billion oil spill liability trust fund to allow recovery for claims of economic injury or damage to natural resources.

Mr. President, although it has been a long time in coming, those of us in Congress should be proud of the bill we now have before us. I commend the majority leader for his tireless efforts on this legislation, as well as the chairman of the Environment and Public Works Committee, Mr. BURDICK, the ranking member of that committee, Mr. CHAFEE, and the chairman of the committee's Environmental Protection Subcommittee, Mr. BAUCUS.

I urge my colleagues to join me in approving this landmark piece of legislation.

CONFERENCE REPORT ON H.R. 1465, THE OIL POLLUTION LIABILITY ACT

Mr. PACKWOOD. Mr. President, it is with great pleasure that I rise to support the conference report on the Oil Pollution Liability Act. This bill has been a long time in coming. Some form of liability legislation has been in the works for 16 years. The grounding of the *Exxon Valdez* in Prince William Sound last year served as the impetus for Congress to tackle the remaining obstacles to final enactment of this legislation.

The Oil Pollution Liability Act goes a long way to address the problems that became so clear in the aftermath of the Valdez spill. The bill is designed to prevent oilspills, quickly repair and control environmental damage, and ensure that those responsible for the spill pay the full cost of the resulting damage.

Specifically, this bill increases liability limits from $150 per gross ton to $1,200 per gross ton for vessels carrying oil. This is an eightfold increase—an increase that under current circumstances, is absolutely necessary. The bill does not preclude States from imposing even higher liability limits, or even unlimited liability, on shippers.

The bill also establishes a national oil spill liability trust fund which can provide up to $1 billion per incident to pay for cleanup and compensation costs not covered by spillers. This ensures we will have the money to clean up oilspills and restore our natural resources to their original beauty.

In addition to addressing the costs involved with a cleanup, this legislation aims to improve both the public and private response to any spill. It requires federally approved response plans to be developed for vessels and facilities, and seeks to ensure proper cleanup equipment and trained personnel are ready and able to respond to a spill.

The bill also contains provisions to strengthen oil tanker safety standards. Among these provisions is a requirement that all new tankers and barges be built with double hulls. In addition, existing single hull vessels would be phased out by the year 2010.

Mr. President, resolution of some of these issues was a long and sometimes controversial process. However, the conferees all had one single goal in mind—enactment of tough, effective legislation. I am convinced that as long as we are in the business of transporting oil from place to place, there will be accidents. However, we must do everything in our power to minimize the number and size of such spills, ensure a quick and effective response when spills do happen, and place the cost squarely on the shoulders of those responsible. I believe this bill achieves these goals.

RADIATION EXPOSURE COMPENSATION ACT

Mr. DECONCINI. Mr. President, I rise today to express my support for the House Resolution 2372, radiation exposure compensation bill, as amended, which was approved by the Senate late last night. As cosponsor of the Senate substitute, I commend the distinguished senior Senator from Utah for his leadership and many years of hard work on this bill. His unflagging advocacy for the radiation exposure victims brings us one step closer to rectifying a gross injustice caused by the Federal Government's negligence.

Many of these victims are citizens of my State. They are native American miners who were exposed to extraordinary high levels of radiation in the uranium mines of the Four Corners areas as they produced the necessary ore for the United States exclusive use. To serve the national security interest of this Nation, they endured the dirtiest and least regulated uranium mine conditions. No one told them how dangerous radiation was or about the health hazards associated with radiation exposure. This was not a situation where the Federal Government did not know what the consequences of radiation exposure were or about the conditions in these mines.

The travesty here is that the Federal Government knew. The U.S. Public Health and the Atomic Energy Commission understood the hazards and knew how to alleviate the problem. But nothing was done to warn the miners or to require the mine operators to ventilate the mines. Nothing was done to establish or implement standards for mine safety to protect these miners. In fact, the Federal courts have concluded that the Federal Government disregarded the need to share its knowledge of the dangers because it feared that miners would refuse to work in these mines. This was unacceptable to the Government since it would interrupt the production of uranium for the Federal nuclear weapons industry.

Mr. President, the Federal Government put the national security interest of the Nation first and the lives and safety of its citizens last. It violated the most fundamental public trust that citizens bestow on its Government—that it will protect them first and foremost. Furthermore, because these citizens are native Americans who are members of a federally recognized tribe and the mines were located on an Indian trust lands, the Federal Government also failed to meet the higher level of fiduciary duty imposed by the unique trust relationship which it has with native Americans. As trustee, the United States breached it's duty to protect the health of these native American miners. It disregarded its trust responsibility for the management of tribal natural resources by failing to require minimum safety standards for the reservation mines.

The Federal Government's actions have resulted in human tragedy. Many of the miners developed lung cancer and related respiratory diseases. When the health problems began emerging among these miners, they went for years not knowing that was wrong with them because they had limited access to health care services. In many cases, their health problems were not diagnosed accurately until they were in the terminal stages of the diseases. The lack of pulmonary specialists in the Indian Health Services contributed to the delayed diagnosis and eventually to the lack of accurate medical records to support the miners' claims.

Many have died. More are living daily with the ravages of their lung or respiratory diseases today. They have sought redress through all possible avenues. Some of the best attorneys in the Southwest have devoted long hours to their cases. Yet, the courts have said that only Congress can remedy the situation. It is within our power to right a great wrong. The United States must own up to its responsibility for the suffering which these men and their families have had to endure. They have borne more than their share of pain and sacrificed enough.

By passing H.R. 2372, we have done the only morally right thing to do. We offer these miners and their families an apology. We authorize compensation for the injuries they suffered. We owe them this compassionate gesture and they deserve it. I thank the Senator from Utah for his good work and all my distinguished colleagues for supporting this measure.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 76) to amend the Wild and Scenic Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1159) to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 666) to enroll 20 individuals under the Alaska Native Claims Settlement Act.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 498) to clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes.

At 2:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2965. An act to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; and

H.R. 3562. An act to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes.

At 4:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5431. An act to impose sanctions on Iraq.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2965. An act to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5431. An act to impose sanctions on Iraq; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The Committee on Labor and Human Resources was discharged from further consideration of the following bill; which was placed on the calendar:

H.R. 5140. An act to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of today, the following enrolled joint resolution was signed by the majority leader [Mr. MITCHELL]:

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2714. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Solitaire* (Rept. No. 101-413).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1025. A bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes (Rept. No. 101-414).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 612. A bill to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System (Rept. No. 101-415).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 996. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1834. A bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Fred L. Foreman, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years;

Stanley A. Twardy, Jr., of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years;

Joe D. Whitley, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years;

Anthony L. Bennett, of Minnesota, to be United States Marshal for the District of Minnesota for the term of four years;

Lynn H. Duncan, of Georgia, to be United States Marshal for the Northern District of Georgia for the term of four years; and

Keith McNamara, of Ohio, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992.

By Mr. GLENN, from the Committee on Governmental Affairs:

LeGree Sylvia Daniels, of Pennsylvania, to be a Governor of the United States Postal Service for the term expiring December 8, 1998;

Julian W. De La Rosa, of Texas, to be Inspector General, Department of Labor,

Mary Ellen Albrecht, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Kaye K. Christian, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Frederick D. Dorsey, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia;

Ellen Segal Huvelle, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Jose M. Lopez, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Joan Z. McAvoy, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Gregory E. Mize, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Linda Turner Hamilton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

John Henry Bayly, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Patricia A. Wynn, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Stephen D. Potts, of Maryland, to be Director of the Office of Government Ethics for a term of five years;

Patrick E. McFarland, of Virginia, to be Inspector General, Office of Personnel Management;

Wallace Elmer Stickney, of New Hampshire, to be Director of the Federal Emergency Management Agency;

Russell Flynn Miller, of Maryland, to be Inspector General, Federal Emergency Management Agency;

George F. Murphy, Jr., of Maryland, to be Inspector General, United States Information Agency; and

Stephen G. Milliken, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly appointed committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 2952. A bill to amend the Energy Policy and Conservation Act to extend the authority for Titles I and II; considered and passed.

By Mr. JOHNSTON:

S. 2953. A bill to provide relief to shrimp fishermen from economic hardship caused by the mandatory use of turtle excluder devices under the Endangered Species Act, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LEAHY):

S. 2954. A bill to place restrictions on United States assistance to El Salvador; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEVIN, Mr. D'AMATO, Mr. KERREY, Mr. ADAMS, Mr. AKAKA, and Mr. WIRTH):

S. 2955. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to establish a medications development program to promote research, development, and production of pharmacotherapeutics used to treat drug addiction in the United States and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAHAM:

S. 2956. A bill for the relief of Benjamin H. Fonorow; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. DOLE):

S. 2957. A bill entitled the "Criminal Alien Deportation and Exclusion Act"; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. COATS, Mr. LUGAR, and Mr. HARKIN):

S. 2958. A bill to provide for the resumption of certain Medicare case management demonstration projects; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. SYMMS, Mr. CONRAD, Mr. BURNS, Mr. BURDICK, Mr. DURENBERGER, Mr. BIDEN, Mr. DODD, Mr. LIEBERMAN, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. HARKIN, Mr. BOSCHWITZ, Mr. ROBB, Mr. COATS, Mr. SIMON, Mr. DECONCINI, Mr. LEVIN, Mr. GRASSLEY, Mr. RIEGLE, Mr. COCHRAN, Mr. SPECTER, Mr. PELL, Mr. HATFIELD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. DIXON, Mr. DANFORTH, Mr. BOREN, Mr. LUGAR, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. INOUYE, Mr. ADAMS, Mr. ROTH, Ms. MIKULSKI, Mr. D'AMATO, and Mr. KERRY):

S. 2959. A bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2960. A bill for the relief of Janice and Leslie Sedore and Ruth and George Hillman; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. ADAMS, Mr. SIMON, Mr. HARKIN, Mr. PELL, Mr. DODD, Mr. REID, Mr. METZENBAUM, Mr. BINGAMAN, Mr. INOUYE, and Mr. AKAKA):

S. 2961. A bill to amend the Public Health Service Act to promote greater equity in the delivery of health care services to women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2962. A bill to amend title 1 of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to authorize the Clerk of the House of Representatives and of the Senate to receive bills returned by the President at any time their respective Houses are not in session; to the Committee on Governmental Affairs.

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2963. A bill to authorize the Secretary of the Interior to conduct an advanced water treatment research and demonstration project near Salton Sea, California; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 2964. A bill to provide television broadcast time without charge to candidates for federal elective office and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PACKWOOD:

S.J. Res. 357. Joint resolution to designate September 15, 1990 to October 15, 1990 as "Community Center Month"; to the Committee on the Judiciary.

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. MITCHELL, Mr. BIDEN, Ms. KASSEBAUM, Mr. CRANSTON, Mr. DODD, Mr. COATS, Mr. KENNEDY, Mr. DECONCINI, Mr. ADAMS, Mr. MCCAIN, Mr. MURKOWSKI, Mr. LEVIN, Mr. RIEGLE, Mr. PACKWOOD, Mr. KASTEN, Mr. WILSON, Mr. LAUTENBERG, Mr. FORD, Mr. BENTSEN, Mr. COHEN, Mr. REID, Mr. BREAUX, Mr. SASSER, Mr. INOUYE, Mr. SIMPSON, Mr. DOMENICI, Mr. LIEBERMAN, Mr. GRAMM, and Mr. THURMOND):

S. Res. 318. Resolution to condemn Iraq's invasion of Kuwait; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 2953. A bill to provide relief to shrimp fishermen from economic hardship caused by the mandatory use of turtle excluder devices under the Endangered Species Act, and for other purposes; to the Committee on Finance.

TRAWLERS RELIEF AND WORKING LIVELIHOOD ACT

Mr. JOHNSTON. Mr. President, I send a bill to the desk for introduction.

Mr. President, what this bill does is help alleviate a situation which is impossible for shrimpers in Louisiana. Shrimpers are being imprisoned for trying to feed their families and continue to shrimp as they have done for many, many years in Louisiana; for failure to pull what they call the turtle excluder devices.

Mr. President, they are imprisoning and threatening to imprison shrimpers in Louisiana who have never caught a turtle; whose only sin, whose only crime is to fail to pull a turtle excluder device.

Mr. President, there are sufficient sanctions in the present law in terms of fines without putting these people in jail.

Mr. President, the second thing this bill does is prevent the Secretary of Commerce from shortening or terminating the shrimping season. We have had threats from the Secretary of Commerce to do this. To do that would be devastating to all of the coastal areas in my State as well as elsewhere in the gulf region. It is improper policy, Mr. President, for the Secretary of Commerce to shut down the shrimping season. This bill would prevent the Secretary of Commerce from doing that as well as from putting our shrimpers in jail. I hope the Senate will swiftly pass this legislation. It is greatly needed in our coastal areas.

I thank the majority leader for letting me introduce this bill.

I ask unanimous consent the remainder of my statement be printed in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred. Without objection, the Senator's statement will appear in the RECORD.

The statement follows:

Mr. President, I am here today because my home state of Louisiana is in a state of emergency. A perceived threat to endangered or threatened sea turtles has caused Federal lawmakers to restrict shrimp trawling practices by requiring a shrimper's net to be equipped with a turtle excluder device, or TED. A TED allows a turtle to escape in the unlikely event that one becomes entangled in a net. The law requires that all shrimp trawlers put the cage-like device in their nets or face stern civil and criminal penalties. Enforcement of this law has been Draconian. Most of the shrimpers who have been arrested and thrown in jail with drug dealers and murderers have never even caught a turtle in their nets.

The law is the law. The shrimpers know that. I know that. What I also know is that our shrimp fishermen are drowning in a sea of debt because of the diminished harvest of wild shrimp, and diminished income, when pulling a TED. It is a matter of life or death for our shrimpers. They simply cannot survive under the status quo.

I am not saying that the TEDs regulations should be suspended or repealed. I am not saying that sea turtles should be de-listed from endangered or threatened status because of the exorbitant costs to shrimpers. What I am saying is that something must be done. Something must be done to relieve the severe economic burden the shrimpers alone are bearing. Something must be done help these hardworking, law-abiding people put food on their tables and pay their bills. Something must be done to ensure that our shrimpers do not suffer the same fate as the endangered sea turtles at the heart of this controversy have suffered in the past. Mr. President, I think the bill I am offering today can do just that.

My bill prohibits the Secretary of Commerce from shortening or otherwise restricting the shrimping season in the Gulf of Mexico and the South Atlantic until 90 days after the Secretary has presented findings to Congress demonstrating the need for additional restrictions. We cannot afford to have the Secretary imposing even more drastic restrictions on law-abiding shrimpers without sufficient proof that such measures are absolutely necessary.

This legislation also provides for a sea turtle conservation tax credit. The tax credit is intended to offset the loss of income by shrimpers using turtle excluder devices. The conservation loss is calculated as fifteen percent of the total dollar amount received by a shrimper for the sale of shrimp caught in areas where TEDs are required. The key is that the tax credit is only available to a shrimper who has not been convicted of civil or criminal violations of the Endangered Species Act that involve the failure to use, or improper use of, a TED during that tax year.

The bill also removes criminal penalties for violation of the Federal requirements concerning the use of turtle excluder devices. Mr. President, I was raised to respect the law. My daddy taught me to obey the law even when I didn't agree with it. But Mr. President, the law has never come and taken my livelihood away. The law has never told me I must do something that would threaten my ability to put food on the table for my family. So I can understand, though not condone, the refusal of shrimpers in South Louisiana to obey the Federal regulations on TEDs. It seems to me, Mr. President, that given the present desperation of normally law-abiding shrimp fishermen, it would not be just to throw them in jail with murderers and drug dealers. That just adds misery to pain. The stringent civil penalties and fines for violation of the Endangered Species Act are a strong enough deterrent. And for those who are nevertheless moved to violate the TED requirements, little purpose is served by throwing them in jail as well.

The final provision of my bill furthers the intent of the Endangered Species Act to ensure the conservation and recovery of endangered and threatened species, including sea turtles, by directing the Secretary of Commerce to establish and implement a comprehensive sea turtle headstart program. Under the program, endangered and threatened sea turtle eggs are removed from the wild, hatched in captivity, and the young sea turtles are released months later into the wild after the greatest period of vulnerability to predation has passed.

Up to now, everyone has viewed this situation as a direct conflict between shrimper and sea turtle. As a choice between shrimpers feeding their families or turtles bouncing back from near extinction. As a decision on whether our commercial shrimping industry will die off or an endangered species will die off. With this bill, we do not have to choose. With this bill, we can save not one but two endangered species with a single stroke of the legislative pen—sea turtles and shrimpers.

By Mr. DODD (for himself and Mr. LEAHY):

S. 2954. A bill to place restrictions on United States assistance to El Salvador; to the Committee on Foreign Relations.

EL SALVADOR MILITARY AID REDUCTION AND RESTRICTIONS ACT

Mr. DODD. Mr. President, earlier this year, on February 8, I introduced legislation that was specifically de-

signed to underscore the United States commitment to a negotiated settlement of the conflict in El Salvador.

That proposal uses our military assistance to the Government of El Salvador as a lever to encourage both sides in this bloody conflict to go to the conference table, to stay there, to negotiate in good faith and to accept the active mediation of the Secretary General of the United Nations.

I still believe this concept is a fundamentally sound one. And I am encouraged that a large majority of our colleagues in the House have already approved an aid-to-El Salvador provision modeled on the proposal I introduced in February. The House provision is contained in H.R. 5114, the foreign operations appropriations bill which passed the other body on June 27.

Soon it will be our turn to deal with this legislation and in anticipation of doing so, I am pleased to join with the chairman of the Senate Appropriations Subcommittee on Foreign Operations, the distinguished senior Senator from Vermont [Mr. LEAHY], to introduce a revised version of the February proposal.

This version takes into account the House-passed language and includes some additional changes and refinements.

I ask unanimous consent that a summary of this legislation be inserted at this point in the RECORD.

Mr. PRESIDENT, as those who have followed the issue of aid to El Salvador know, it is a very controversial one. In the recent past, for example, Senator LEAHY and I have found ourselves on different sides of it. With this proposal I am pleased to report that we have bridged those differences, and I am hopeful that others will join with us in a common effort to help bring the Salvadoran negotiations to a successful conclusion.

That's what this legislation is all about. It is purposefully designed to lower the military temperature of the conflict and put the spotlight on the negotiating process. To do this the bill prescribes a series of incentives and disincentives for both sides to pursue the negotiating track and to bring the negotiations to a successful conclusion.

To move the conflict in this direction—to move it from the battlefield to the negotiating table—the bill withholds 50 percent of the military aid that would otherwise be available to the Government of El Salvador. It does this to emphasize our commitment to a negotiated solution and to encourage both parties to the conflict to make a similar commitment.

This is the strongest formula available. A 50-percent withholding sends the kind of message that is not likely to be misinterpreted by either side. First, it says we are serious. Second, it says we are fair. And third, it says we are balanced. It strikes a midpoint between those who argue for full funding and those who argue for no funding. No other formula has these attributes.

In addition to the 50-percent formula, there are a number of conditions, safeguards and reporting requirements, which taken together, reinforce the commitment and dedication to a negotiated settlement. For example, in order to guard against either party to the conflict using the negotiations as a stalling tactic, this bill authorizes the President, following consultations with the Secretary General of the United Nations, to release the funds being withheld if he determines the guerrilla forces are guilty of such tactics, or to withhold the remaining funds if he determines the Salvadoran Government is stalling.

Mr. President, I am hopeful that provisions such as this one indicate to the administration that the Senator from Vermont and I have spent a great deal of time crafting a bill which fully respects the perogatives of the executive and legislative branches. Clearly, it is not our intention to hamstring the President. But just as clearly, it is our intention to play an integral role in the policy process. Obviously we are willing to discuss this proposal with administration officials; we are willing to entertain suggestions. But we are not willing to engage in a rewrite based on the kind of unrealistic proposal the administration has circulated quietly on the Hill.

Mr. President, the recent history of El Salvador makes it difficult to be optimistic. We are running out of options and we are running out of time. We are running out of time on the negotiating process and we are running out of time on the larger political process as well. While both sides continue to return to the negotiating table, so far little progress has been made. And without significant progress on the agenda adopted in Caracas, the prospects for a successful electoral process next March are not promising.

The principal stumbling block is the Salvadoran Armed Forces. And the hard truth of the matter is this. There will be no peace, no justice, no democracy in El Salvador so long as the military and security forces in that country can act with impunity. That's the basic, fundamental political problem. That's what the conflict is all about. President Cristiani knows it. President Bush knows it too. We all know it.

That's why this proposal targets United States military assistance to the Salvadoran Armed Forces. The message is simple and straightforward: Real military reform is essential to the success of the negotiating effort. We expect the Salvadoran Government and its military component to get on with it. And so far as I am concerned, this requirement is not negotiable.

Now is the time, Mr. President. Now is the time for the United States to put its political weight and diplomatic muscle behind a comprehensive political settlement to the Salvadoran conflict. This legislation does just that. I ask my colleagues to give it their full support.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF DoD/LEAHY BILL ON REDUCING AND CONDITIONING MILITARY ASSISTANCE TO EL SALVADOR

Sets forth the following U.S. policy objectives with respect to El Salvador—

To promote a permanent settlement and ceasefire to the conflict through mediation by the U.N. Secretary General;

To foster greater respect by the Government of El Salvador for basic human rights and the rule of law; and

To advance political accommodation and national reconciliation.

Caps military assistance to El Salvador at $85 million for FY 1991;

Prohibits all U.S. military assistance to the Government of El Salvador if the President determines and reports that any of the following is the case—

The Government of El Salvador has refused to participate in negotiations;

The Government of El Salvador has rejected the mediating role of the Secretary General of the UN;

The Government of El Salvador has failed to conduct a professional investigation into and prosecution of those responsible for the November 16, 1989 murders of the six Jesuits and their associates;

The military or security forces of El Salvador are assassinating or abducting civilians;

The Government of El Salvador is not negotiating in good faith in the U.N. sponsored negotiations;

Underscores the U.S. commitment to the negotiating process by withholding 50% of U.S. military assistance which would otherwise be made available to the Government of El Salvador in fiscal year 1991, including any money in the pipeline from prior fiscal years, unless the President determines and reports to Congress that one of the following is the case—

The FMLN has refused to participate in negotiations or accept the mediation of U.N. Secretary General;

The constitutional government of El Salvador is being jeopardized by a military offensive by the FMLN;

Proof exists and has been provided to Congress that the FMLN continues to receive substantial military assistance from outside that country;

The FMLN is assassinating or abducting civilians

The FMLN is not negotiating in good faith in U.N. sponsored negotiations;

Terminates all U.S. economic and military assistance to the Government of El Salvador in the event of a military coup;

Establishes a "Fund for Ceasefire Monitoring, Demobilization and Transition to Peace", transfers military assistance withheld by the bill to the newly established fund, with the monies to be provided to El Salvador once a permanent settlement has

been reached to support implementation of that settlement;

Strengthens civilian control over the military by mandating prior approval of all U.S. military assistance to the military and security forces by the civilian government;

Earmarks up to 10,000,000 in ESF funds in FY 1991 to support democratic initiatives in El Salvador, including up to $2,000,000 for monitoring the 1991 municipal elections in that country;

Fences $5,000,000 in FY 1991 military assistance pending the investigation and trial of those responsible for the 1981 murders of the U.S. AIFLD workers, and the El Salvador land reform activist; the 1988 San Francisco massacre; the 1989 murders of the six Jesuits and their associates; and the 1989 Fenastras bombing;

Requires a report by the President to the Congress sixty days after the enactment of the bill into law, and every 180 days thereafter, on the U.N. sponsored negotiations, on all relevant activities by the Government and FMLN; and on the on-going investigations and prosecutions of those responsible for the politically motivated murders set forth in the bill.

Mr. LEAHY. Mr. President, today Senator DODD and I are joining forces and introducing the El Salvador Military Aid Reduction and Restrictions Act. This legislation is very similar to the Moakley-Murtha provision that withholds 50 percent of El Salvador's military aid, and which won easily in the House last month as an amendment to the foreign operations appropriation. It is also conceptually like the bill Senator DODD introduced earlier this year.

Working together, we have made some important changes which I will describe shortly. But before that I want to emphasize what underlies this legislation—our shared conviction that the time has come for strong congressional action on El Salvador.

That is a change from last year, when we were on opposite sides. My amendment last year to put conditions on one-third of El Salvador's military aid got 39 votes. With the two of us working together this year, I believe we will have the support of a majority in the Senate to withhold one-half of El Salvador's military aid.

Mr. President, let me give a bit of history to explain how we got to this point.

It was 10 years ago this year that Archbishop Oscar Romero was assassinated as he was saying Mass in his church in San Salvador. Archbishop Romero is remembered as a voice for the millions of Salvadorans who have been caught in the middle of a war that has ravaged that country and left over 70,000 dead. They are the innocent victims of both sides, and they have suffered unspeakable brutality.

No family has escaped unscathed. Hundreds of thousands of Salvadorans have fled, mostly to the United States as refugees, where they live in squalor.

In 10 years, we have sent over 4 billion in United States tax dollars to successive governments in El Salvador, ostensibly to fight communism, with little regard for how that money was being used. Despite abundant evidence of rampant corruption at the highest levels of the Salvadoran Government, massive waste and inefficiency, and outrageous human rights violations by the military, we kept the money flowing. While we were preoccupied with Nicaragua and the Iran-Contra scandal, El Salvador was all but forgotten.

The massacre of 20 peasants in the village of San Sebastian by Salvadoran soldiers in September 1988 woke us up. Predictably, the military first tried to cover it up, but the truth finally came out.

Then came the bombing of the Fenastras union headquarters, where 10 people died.

Last October we saw the FMLN stage a brutal offensive in the residential neighborhoods of the capital city, hiding in homes, schools, hospitals, and churches. Hundreds of civilians died in the crossfire.

And then came the sickening murders of six Jesuit priests and their housekeepers at the University of Central America in San Salvador last November.

Once again, we were faced with a policy that has failed miserably, at enormous human and financial cost. Yet, despite this record of failure, once again the administration is asking for more aid for El Salvador than for all of Eastern Europe.

Time and again the administration assured us things were getting better, that the Arena government—Roberto D'Aubuisson's government—was committed to reforms, that the military was respecting human rights. Yet now we know it was the military, and an elite U.S.-trained battalion at that, who killed the Jesuits.

It was premeditated murder, execution style, of individuals who represented the real conscience of El Salvador. Father Ellacuria had been a courageous voice for an end to violence by both sides, for negotiations, for democracy.

Mr. President, for 10 years we have tried to buy democracy in El Salvador. In one sense, I suppose, we have bought at least some of the forms. There have been elections. But underneath that thin facade, El Salvador is the antithesis of democracy. There is no justice, even for the victims of the most heinous crimes. There is no sign that the Arena government, like every government before it throughout the history of that country, is willing or able to protect the rights of the majority of its people who continue to live in poverty and fear.

Instead of democracy, the billions of dollars we have poured in there has been the lifeblood of corruption and repression. The military runs El Salvador, and it does so with impunity. One need only look at the record of the Salvadoran military and the death squads under their control.

A House report recently concluded that 14 of the 15 of El Salvador's commanding military officers have risen to their positions despite documented abuses, including murder and torture of noncombatants, by troops under their command.

This includes Chief of Staff Emilio Ponce, the Minister and two Vice Ministers of Defense, the heads of the three security forces, and five of the six major brigades.

Of the 14 commanders whose troops reportedly committed abuses, 11 received U.S. training, some for many years.

And, not a single military officer has ever been punished.

The San Sebastian case, which the U.S. Ambassador and other administration officials called a "test case" of the Cristiani government's commitment to justice, has gone nowhere. Despite constant pressure from the United States to prosecute those responsible, charges against all but one of the soldiers have been dismissed.

The same is true of the notorious kidnaping-for-hire case. Charges dismissed.

And the Jesuit case. It has been 9 months. President Cristiani promised a thorough investigation. When a handful of enlisted men were charged, he assured us that those who gave the orders would not escape punishment.

Since then, the case has gone nowhere. We are told the single officer charged, Colonel Benevides, who no one believes conceived of this crime himself, is likely to go free. No higher officers have even been questioned, not to mention charged. No one expects a trial any time soon.

These savage, bloody, barbaric slayings show to all that President Cristiani, whatever he may say or may want personally, is not able to control the military. This is the real measure of El Salvador today.

This and the previous administration said they were outraged by the political killings. But when no one was prosecuted they did nothing. And year after year the Salvadoran officials who got rich from our aid maligned us behind our backs. They laugh at us for being naive fools.

It is no secret that I have opposed this policy. I have previously offered amendments to give the Congress a say in how our money is spent in El Salvador. Each time, support in Congress has grown. Several Senators who opposed my amendment last year expressed grave misgivings about handing over a blank check to a military that routinely murders innocent people and is never punished.

The time is long overdue to say "enough." With a newly elected government and the demobilization of the

Contras in Nicaragua, the East-West cold war over, and United Nations-sponsored negotiations between the Salvadoran Government and the FMLN finally underway, we can no longer justify a policy of business as usual. It is crucial for the United States to put real pressure on both sides in El Salvador to stay at the bargaining table and respect human rights.

In summary, our bill:

Caps military aid at $85 million for 1991.

Withholds all military aid to El Salvador if the President determines and reports to Congress that the Government of El Salvador refuses to negotiate a peace settlement; or rejects an active mediation role by the United Nations; or fails to investigate and prosecute those responsible for the Jesuit murders; or engages in acts of violence against civilians.

Requires an act of Congress to resume assistance withheld because of any of these conditions.

Withholds 50 percent of the $85 million for 1991 and any unexpended military aid from previous years, unless the President determines and reports to Congress that the FMLN refuses to negotiate a peace settlement; or refuses an active mediation role by the United Nations; or conducts a major offensive; or receives a significant amount of lethal equipment from abroad; or engages in acts of violence against civilians.

Converts the 50 percent of withheld aid into a fund to assist with the costs of monitoring a cease-fire, demobilization of combatants, and their transition to peacetime activities.

Prohibits any military aid if the Government of El Salvador is overthrown by a coup.

Requires the prior approval of the President of El Salvador for the delivery of military aid to the armed forces.

Provides $10 million in economic aid to establish a program of education, training, and dialog to strengthen democratic, political, and legal institutions in El Salvador. Up to $2 million of these funds may be used to monitor the 1991 elections.

Continues current law by withholding $5 million in military assistance pending a report from the President certifying significant progress in several human rights cases.

Mr. President, in the past we have tried quiet diplomacy. We have tried threats. This bill will finally send a message that will not be missed by the Salvadoran military or the FMLN. As long as the military supports the negotiations and respects human rights, they will continue to receive our aid.

And, as long as the FMLN does the same, U.S. aid to the military will be reduced by 50 percent. Our bill does not endanger the Salvadoran Government because the reduction in aid is conditioned on the FMLN staying at the bargaining table and not amassing new supplies of weapons.

Our bill differs from the Moakley-Murtha bill in two important respects. Our 50-percent withhold includes El Salvador's military aid pipeline, as well as the $85 million for 1991. This means that depending on when this provision becomes law, the amount withheld will be one-half of approximately $100 to $130 million, not of $85 million.

And, we require that these withheld funds be converted into a fund to help the combatants on both sides demobilize and find civilian jobs when the fighting stops. This gives the FMLN and the military an incentive to accept a cease-fire and demobilization. They know they will have help in returning to civilian life.

Mr. President, as chairman of the Foreign Operations Subcommittee I plan to use the Dodd-Leahy bill as the basis for the recommendations on military aid to El Salvador I will make to the Appropriations Committee. I expect to write the bill sometime after Congress reconvenes in September.

Senator DODD and I have taken this step after initial discussions with the administration on the subject of El Salvador. I wish we could agree on a bipartisan policy on El Salvador. But I think a majority of us have reached the end of the road on finding excuses for Salvadoran human rights violations, military domination of the country, and endless war.

The administration is too far away from our position for me to have much to talk about. If they want to discuss the terms and conditions of a 50-percent withhold of aid, then we have something to discuss. But otherwise, I would expect the full Senate to debate this measure in late September or early October.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEVIN, Mr. D'AMATO, Mr. KERREY, Mr. ADAMS, Mr. AKAKA, and Mr. WIRTH):

S. 2955. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to establish a medications development program to promote research, development, and production of pharmacotherapeutics used to treat drug addiction in the United States, and for other purposes; to the Committe on Labor and Human Resources.

PHARMACOTHERAPY DEVELOPMENT ACT

● Mr. BIDEN. Mr. President, I rise to introduce the Pharamacotherapy Development Act of 1990—the Ph.D Act—legislation to speed the development of medicines to treat drug abuse.

The drug epidemic we face in America is just that: A medical epidemic. There are, of course, other dimensions to this problem: a criminal justice problem, which must be fought with new resources for police officers, courts, and prisons; an education problem, which must be fought with programs to reach all of our childen; and a psychological problem, which must be fought with treatment centers and support groups.

In all of these areas—law enforcement, education, and treatment—we are finally on the road toward making the needed effort to fight drugs in our country.

But the medical dimension of this epidemic remains, by and large, overlooked. Drug addiction is, among other things, a medical ailment—a disease that requires medical treatment. This medical aspect of our drug epidemic has been ignored in our recent anti-drug efforts.

Put another way: If drug addiction is an epidemic—as we often say it is—what are we doing to find a cure?

In this sense, we need to look at drug addiction the way we looked at AIDS a few years ago. With AIDS, we recognized that public education and prevention campaigns were our most important tools in battling the disease. The same is, of course true for drug abuse: Our most important priority is to educate our youth to prevent them from using drugs in the first place.

But with AIDS, we have gone a step further, and launched a massive effort to find a medical cure for sufferers of that disease—and a vaccine that can protect all of us from getting it in the future.

This sort of next step has not yet been taken with drug addiction.

The Judiciary Committee released a staff report in December—"Pharmacology: A Strategy for the 1990's"—which was based on several months' study and contributions from more than a dozen of the Nation's top experts on this research. The report indicates that there has been hopeful research on medicines to treat drug abuse. But, this report also makes clear that unless we take action, these medicines will not reach drug addicts until well into the next century.

We do not have to start from scratch in this effort. Some medical treatments for drug addiction—such as methadone—have been around for decades. And other treatments—perhaps more promising ones—have been identified by researchers and are now being developed and tested.

In fact, the Judiciary Committee report identified eight promising medicines to treat heroin and cocaine addicts. Most of these eight medicines have proven results from clinical tests or practical experience. We know that addicts treated with these medicines will commit fewer crimes, hold on to jobs or remain in school, and make significant steps toward putting their lives back in order.

But more work must be done before these eight drugs can deliver their full potential.

Moreover, beyond these eight medicines are dozens more—medicines that are promising but unproven. And farther away still are hundreds of possible treatments—including, most importantly, a complete blocker for cocaine. Such a medicine would prevent an addict from enjoying that drug's positive effects altogether.

Many steps must be taken to deliver on this promise. Incentives are necessary to attract academic research and private sector development of medicines. The regulatory process must be accelerated. The current 10½-year delay between the time a medicine is discovered and the time it is given to addicts as a treatment is unacceptable.

And, most important of all, we must have a Government commitment to this research. The administration requests only $40 million more for this research in 1991—just $4 million more than we spent in 1990 and barely enough to study 4 of 30 promising medicines.

Today I am introducing legislation to implement the recommendations of the Judiciary Committee report. I am honored to be joined by Senators KENNEDY, CRANSTON, LEVIN, D'AMATO, KERREY, ADAMS, WIRTH, and AKAKA.

I am particularly honored that Senator KENNEDY is cosponsoring this legislation. The esteemed chairman of the Senate Labor and Human Resources Committee is the Senate's leading and most knowledgeable spokesman on behalf of drug treatment. Senator KENNEDY's efforts have ensured that drug treatment is today, and will continue to be, an equal partner in the Nation's struggle against drugs.

The legislation I propose today would establish a $1 billion, 10-year Federal effort to conduct research on promising drug treatment medicines. This effort should be conducted by a revamped "medications development program" at the National Institute on Drug Abuse. Such a program exists now, but it must be greatly expanded and strengthened. We need a massive research operation to help stem the drug epidemic, and we need it now.

This legislation would extend patent protections to cover drug treatment medicines. Senator KENNEDY and I introduced an amendment to this effect in October, which passed the Senate but has not yet passed the House. We must provide these incentives to get the private sector more actively involved in this effort.

Our third proposal is to reform the regulatory process to speed up the pace at which newly discovered medicines are brought to market. Again, this is something that is being done for AIDS treatments, and should be extended to cover drug addiction medicines as well. While we should not sacrifice safety, we should recognize that sometimes our failure to get treatments out quickly takes more lives than we save due to our cumbersome approval process.

We cannot afford to wait any longer to have a national pharmacology strategy. The promise is there, the need is urgent, and we must start right away.

Thank you.

I ask unanimous consent that a copy of the bill, along with a section-by-section analysis of this legislation, appear in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pharmacotherapy Development Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.

TITLE I—FEDERAL MEDICATION DEVELOPMENT PROGRAM

Sec. 101. Establishment of Medications Development Division.
Sec. 102. Authorization of appropriations.

TITLE II—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

Sec. 201. Drugs for the treatment of additions.

TITLE III—MEDICATIONS REVIEW PROCESS REFORM

Sec. 301. Investigational new drugs.
Sec. 302. Paralled track trials for pharmacotherapeutic.
Sec. 303. Waiver of mechanism of action requirement.
Sec. 304. Definition.

TITLE IV—HIGH PRIORITY RESEARCH AREAS

Sec. 401. Sense of Congress.

TITLE V—REPORT BY THE SURGEON GENERAL

Sec. 501. Report by the Surgeon General.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drug addiction is a disease of epidemic proportions in the United States;

(2) current efforts to treat the disease of addiction are inadequate; and

(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this Act to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

TITLE I—FEDERAL MEDICATION DEVELOPMENT PROGRAM

SEC. 101. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to futher the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to Act of March 3, 1877 (4) U.S.C. 34), by lease or otherwise through the Administrator for the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the Dis-

trict of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) IN GENERAL.—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) ADDITIONAL REPORTS.—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(A) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(B) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) $60,000,000 for fiscal year 1991;

"(2) $70,000,000 for fiscal year 1992;

"(3) $85,000,000 for fiscal year 1993;

"(4) $100,000,000 for fiscal year 1994;

"(5) $110,000,000 for fiscal year 1995; and

"(6) $115,000,000 for each of the fiscal years 1996 through 2000.".

TITLE II—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 201. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addiction of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the

date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

TITLE III—MEDICATIONS REVIEW PROCESS REFORM

SEC. 301. INVESTIGATIONAL NEW DRUGS.

(a) SUBMISSION OF APPLICATION.—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) APPLICATION OF PROCEDURES.—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 302. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) IN GENERAL.—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) DEFINITION.—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 303. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 304. DEFINITION.

As used in this chapter, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; and

(5) prevent, under certain conditions, the initiation of drug abuse.

TITLE IV—HIGH PRIORITY RESEARCH AREAS

SEC. 401. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and

(6) the development of medications to treat pregnant addicts and their fetuses.

TITLE V—REPORT BY THE SURGEON GENERAL

SEC. 501. REPORT BY THE SURGEON GENERAL.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Surgeon General.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

SECTION-BY-SECTION ANALYSIS OF THE PHARMACOTHERAPY DEVELOPMENT ACT OF 1990

This legislation may be referred to by its popular name, the "Ph.D. Act."

SUBTITLE A—PHARMACOLOGICAL RESEARCH

This subtitle establishes a Medications Development Division within the National Institute on Drug Abuse of the Department of Health & Human Services. The Division would develop medications to treat drug addiction. The Division would have the authority to make grants and enter into contracts to research, test, and develop such medications.

This subtitle authorizes $60 million in fiscal year 1991 funding for the Medications Development Division; a total of $1 billion for fiscal years 1991 through 2000. The Administration's FY1991 request for this research is $40 million; $4 million more than the FY1990 budget. The Administration's request is insufficient—one year's research on a single medicine costs about $1 million, however NIDA researchers have identified 30 new medications for development.

The decade-long funding plan offers the long-term commitment necessary to develop these medications.

SUBTITLE B—PRIVATE SECTOR INCENTIVES

This subtitle provides incentives to the private sector to develop medications to treat drug addiction. These incentives, modeled after the Orphan Drug Act, were passed by the Senate last year (in an amendment by Senators Kennedy and Biden to S.1711.) The Secretary of Health and Human Services, acting through the Administrator of the Food & Drug Administration, may grant special patent protections to companies who develop and market such medications.

SUBTITLE C—REFORM OF MEDICATIONS REVIEW PROCESS

This subtitle offers reforms to speed the delivery of these medications to drug addicts. The "Investigational New Drugs" provision gives some patients access to these medications before they receive final FDA approval. "Parallel Track Trials" would allow researchers access to medications that have proven safe, but not yet completed FDA's efficacy testing. These procedures will quicken the FDA's approval process, that currently takes an average of 10.5 years.

SUBTITLE D—HIGH PRIORITY RESEARCH AREAS

This subtitle identifies a few priorities for the Medications Development Program, including medications to treat pregnant addicts and their fetuses, cocaine addicts, those suffering from combined heroin and cocaine addiction, and medications to treat addictions to drugs which are becoming increasingly prevalent, such as methamphetamine.

SUBTITLE E—SURGEON GENERAL'S REPORT

This subtitle directs the Surgeon General to prepare a report on pharmacotherapeutic treatments of drug addiction by January 1, 1992.●

By Mr. D'AMATO (for himself and Mr. DOLE):

S. 2957. A bill entitled the "Criminal Alien Deportation and Exclusion Act"; to the Committee on the Judiciary.

CRIMINAL ALIEN DEPORTATION AND EXCLUSION ACT

Mr. D'AMATO. Mr. President, early in the morning of July 16, a riot involving 40 criminal aliens took place inside an Immigration and Naturalization Service detention center in New York City. This riot, which resulted in the injury of two detention officers, dramatizes how INS detention centers across this country have become powder kegs of violence.

The system for deporting criminal aliens simply does not work. To address what has become a serious crisis, I am introducing, together with Senator DOLE, the Criminal Alien Deportation and Exclusion Act. This bill expands on the deportation legislation I introduced two years ago as part of the Anti-Drug Abuse Act of 1988.

In the New York City detention center, over 200 criminal aliens have been convicted of over 650 crimes, including 204 convictions for the sale of narcotics; 63 convictions for weapons offenses; 22 convictions for robbery; and 7 convictions for murder and attempted murder.

According to INS, the cost to the taxpayer of keeping 3,300 criminal aliens in detention is nearly $50 million a year.

There is a national backlog of 240,000 deportation and exclusion and other cases pending in immigration courts nationwide.

According to the October 1989 GAO report entitled, "Immigration Control: Deporting and Excluding Aliens from the United States":

Over the past 3 years, only about 22,000 aliens have been deported each year. That is only about 1 to 2 percent of the total estimated deportable alien population of 1.2 to 2.2 million potentially deportable aliens—page 16, GAO report.

In New York and Los Angeles, 59 percent of deportation cases take more than 1 year to complete from the time of apprehension to an immigration judge's decision;

When a decision is appealed to the Board of Immigration Appeals, 81 percent take more than 2 years; 21 percent of the cases take more than 5 years to resolve; and exclusion cases appealed to the Board of Immigration Appeals generally take 3 years to resolve.

The bill Senator DOLE and I are introducing will eliminate many of the outrageous claims that criminal aliens make to fight deportation.

For example, criminal aliens today can seek a waiver of deportation if they can show 7 years of unrelinquished domicile in the United States. For many criminals, obviously, their domicile has been a prison, and for them to seek a waiver of deportation based on a 7-year prison term is unconscionable. Section 8 of our bill closes that loop hole.

Section 10 of our bill will put an end to the practice whereby aliens convicted of murder, and gun and drug trafficking, can now claim that their good moral character should prevent their deportation.

Mr. President, the system clearly tilts too far in the direction of helping criminal aliens. It is time to restore balance to the system to protect innocent law—abiding citizens from murderers and drug dealers.

I therefore urge my colleagues to give the Criminal Alien Deportation and Exclusion Act their full support, and I ask unanimous consent that the full text of the bill, together with a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INS GENERAL ARREST AUTHORITY.

Section 287 of the Immigration and Nationality Act of 1952 (66 Stat. 233) is amended by adding the following at the end thereof:

"(f)(1) Under the direction of the Attorney General, agents and officers of the Immigration and Naturalization Service are authorized to:

(A) carry a firearm;

(B) execute and serve any order, warrant, subpoena, summons or other process issued under the authority of the United States:

(C) make an arrest without a warrant for any offense against the United States committed in the officer's presence, or for a felony cognizable under the laws of the United States committed outside the officer's presence, if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

(D) perform any other law enforcement duty that the Attorney General may designate.

(2) The authority conferred by subsection (f)(1) of this section does not affect the investigative jurisdiction of any other federal law enforcement agency.".

SEC. 2. DEFINITION OF AGGRAVATED FELONY.

Section 101(a)(43) (8 U.S.C. 1101(a)(43)) of the Immigration and Nationality Act of 1952 is amended to read as follows:

"(43) The term "aggravated felony" means any crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another that is punishable by imprisonment of five years or more; any crime involving a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802) that is punishable by imprisonment of one year or more; any crime involving illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code; or any attempt or conspiracy to commit any such crime committed within the United States. For the purposes of this subsection, the term "crime" includes violations of federal or state laws or statutes."

SEC. 3. ADDITIONS TO CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

Section 212(a) (8 U.S.C. 1182(a)) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections;

"(35) Any nonimmigrant alien seeking admission who is in illicit possession of a controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);"

"(36) Any alien who has been convicted of an aggravated felony, as defined in section 101(a)(43) of this Act, or who admits having committed such a crime, or who admits committing acts which constitute the essential elements of such a crime."

SEC. 4. SUMMARY EXCLUSION AND DEPORTATION OF CRIMINAL ALIENS.

Section 235 (8 U.S.C. 1225) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsection:

"(d) any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during an examination before either of such officers to be excludable under paragraphs (23), (35), or (36) of section 212(a) of this Act may be ordered summarily excluded and deported by the Attorney General without any inquiry or further inquiry by a special inquiry officer. Such summary exclusion order shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236 of this Act. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 5. EXPEDITIOUS DEPORTATION OF AGGRAVATED ALIEN FELONS.

Section 242A (8 U.S.C. 1252a) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding any other provision of law, an alien convicted of an aggravated felony, regardless of whether such alien is incarcerated, shall be subject to an expedited summary deportation proceeding. Such proceeding shall be conducted on the record by the Attorney General or his designee, who will make written findings as to alienage and deportability. Any order of deportation issued pursuant to this subsection shall be considered to be a final order. An alien subject to such proceeding shall not be eligible for relief from deportation under any

provision of the Immigration and Nationality Act.

"(g) Upon sentencing any alien for an aggravated felony as defined in section 101(a)(43) of this Act, the federal or state court shall notify the Immigration and Naturalization Service that it has sentenced a person believed to be an alien for an aggravated felony. The federal or state court shall provide to the Immigration and Naturalization Service any and all information related to the alienage of the individual, and certified copies of any and all conviction documents."

SEC. 6. INELIGIBILITY OF AGGRAVATED FELONS FOR ASYLUM.

Section 208(a) (8 U.S.C. 1158(a)) of the Immigration and Nationality Act of 1952 is amended by adding the following new subsection:

"(d) Any alien convicted of an aggravated felony, as defined in section 101(a)(43) of this act, shall not be eligible to apply for relief under this section."

SEC. 7. ELIMINATION OF JUDICIAL RECOMMENDATION AGAINST DEPORTATION OF CRIMINAL ALIENS.

Subsection 241(b) (8 U.S.C. 1251(b)) of the Immigration and Nationality Act of 1952 is amended by deleting "(1)"; and by deleting ", or (2)" and all that follows, and replacing it with a period.

SEC. 8. ELIMINATION OF SEC. 212(C) RELIEF FOR AGGRAVATED FELONS.

Section 212(c) (8 U.S.C. 1182(c)) of the Immigration and Nationality Act of 1952 is amended by adding, at the end thereof, the following:

"Relief under this subsection shall not be available to any alien who has been convicted of an aggravated felony as defined in section 101(a)(43) of this Act."

SEC. 9. ELIMINATION OF SUSPENSION OF DEPORTATION FOR CRIMINAL ALIENS IN HARDSHIP CASES.

Section 244(a) (8 U.S.C. 1254(a)) of the Immigration and Nationality Act of 1952 is amended by striking the words in the first sentence "(other than an alien described in section 241(a)(19) of this Act)" and substituting therefor the following: "(other than an alien described in section 241(a)(4)(B) or 241(a)(19) of this Act)".

Section 244(a)(2) is amended by adding after "(4)" the following: "(A)".

SEC. 10. DEFINITION OF GOOD MORAL CHARACTER TO EXCLUDE AGGRAVATED FELONS.

Section 101(f) (8 U.S.C. 1101(f)) of the Immigration and Nationality Act of 1952 is amended by adding the following subsection:

"(9) One who at any time has been convicted of an aggravated felony as defined in section 101 (a)(43) of this Act."

SEC. 11. INELIGIBILITY OF AGGRAVATED FELONS FOR HARDSHIP WAIVERS.

Section 212(h) (8 U.S.C. 1182(h)) of the Immigration and Nationality Act of 1952 is amended:

(a) by adding at the end the following:

"Any alien convicted of an aggravated felony as defined in section 101(a)(43) of this Act is not eligible for relief under this section.";

(b) by replacing the period at the end of section 101(f)(8) with a semicolon.

SEC. 12. ELIMINATION OF DEPORTATION RELIEF FOR ALIENS WHO ARE AGGRAVATED FELONS.

(a) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) of the Immigration and Nationality Act of 1952 is amended by adding the following paragraph:

"(E) The alien has been convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(b) Section 245(c) (8 U.S.C. 1255(c)) of the Immigration and Nationality Act of 1952 is amended by replacing the period at the end thereof the following new subsection:

"(5) Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(c) Section 249 (8 U.S.C. 1259) of the Immigration and Nationality Act of 1952 is amended by adding at the end the following:

"Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act is not eligible for relief under this section."

SECTION-BY-SECTION ANALYSIS

Section 1 provides, subject to Justice Department implementing regulations, for basic law enforcement powers for INS officers, such as the right to carry firearms and make arrests. INS officers make over 1 million arrests per year for immigration offenses. During the course of those arrests, they often encounter other violations of law, principally narcotics and customs violations.

Today, INS officers can only effect a citizen's arrest under State law for these offenses. INS officers are Federal officers, enforcing Federal laws. They deserve Federal arrest authority.

Section 2 expands the definition of aggravated felonies that trigger the summary exclusion and speedy deportation process to cover both State and Federal crimes of violence punishable by imprisonment of 5 years or more, and to cover State and Federal drug felonies.

Section 3 adds two classes of aliens, nonimmigrants in illicit possession of drugs, and aliens who have committed aggravated felonies, who are ineligible to receive visas and who are not permitted to enter the United States.

For these two classes of criminals, Section 4 provides for a summary exclusion process whereby the Justice Department, instead of an immigration judge and the Board of Immigration Appeals, can rule on excludability.

The present exclusion system is excessively cumbersome and time-consuming. While there would be no administrative review of the exclusion order provided for under this bill, civil liberties protections are still available through the judicial review process provided for under section 106 of the Immigration and Nationality Act.

Section 5 of this bill subjects an alien convicted of an aggravated felony to an expedited deportation process, whereby the Justice Department, instead of an immigration judge and the Board of Immigration Appeals, can rule on the deportability of the criminal alien. Again, civil liberties are protected under the judicial review process provided for under section 106 of the Immigration and Nationality Act.

Finally, Sections 6 through 12 of the bill close a number of loopholes in current law favoring the criminal.

Section 6 makes aliens convicted of murder and other aggravated felonies ineligible to seek asylum under section 208 of the Immigration and Nationality Act.

Section 7 eliminates the ability of sentencing judges under section 241(b) of the Immigration and Nationality Act to recommend against the deportation of an alien convicted of an aggravated felony.

Today, criminal aliens can seek a waiver of deportation if they can show 7 years of unrelinquished domicile in the United States under section 212(c) of the Immigration and Nationality Act. For many criminals, obviously, their domicile has been a prison, and for them to seek a waiver of deportation based on a 7-year prison term is unconscionable. Section 8 closes that loophole.

Section 9 makes criminal aliens ineligible to have their deportation suspended under section 244(a) of the Immigration and Nationality Act if they can show 10 years of physical presence in the United States, and if their removal would cause hardship to family members in the United States.

Section 10 of the Criminal Alien Deportation Act makes aliens convicted of aggravated felonies like murder, and gun and drug trafficking, ineligible to claim good moral character to avoid deportation, since, by definition such individuals clearly lack good moral character.

Section 212(h) of the Immigration and Nationality Act waives certain criminal grounds of exclusion for an alien who is the spouse, parent or son or daughter of a U.S. citizen or lawful resident of the United States if the exclusion would result in extreme hardship to the relative. Section 11 of the Criminal Alien Deportation and Exclusion Act denies this means of avoiding deportation and exclusion to aliens convicted of murder, drug trafficking, and other aggravated felonies.

Finally, Section 12 amends sections 243(h), 245, and 249 of the Immigration and Nationality Act to bar aggravated felons from relief from deportation and other benefits. For example, section 243(h)(2) of the Immigration and Nationality Act provides aliens with relief from deportation based on fear of persecution an account of race, religion, nationality, membership in a particular social group, or political opinion. Section 12 says aliens convicted of murder, drug trafficking, and other aggravated felonies do not deserve such relief.

The amendment to section 245 of the Immigration and Nationality Act prohibits a convicted aggravated felon from the benefit of adjustment of status in the United States from that of a nonimmigrant alien to that of an alien lawfully admitted for permanent residence.

Finally, the amendment to section 249 of the Immigration and Nationality Act bars a convicted aggravated felon who entered the United States prior to January 1, 1972, from recordation of admission for lawful residence.

By Mr. LEVIN (for himself, Mr. COATS, Mr. LUGAR, and Mr. HARKIN):

S. 2958. A bill to provide for the resumption of certain Medicare case management demonstration projects; to the Committee on Finance

MEDICARE CASE MANAGEMENT DEMONSTRATION PROJECTS

● Mr. LEVIN. Mr. President, last year Congress repealed the 1988 Medicare Catastrophic Converage Act. While that bill contained a number of provisions which proved costly to many of our Nation's elderly citizens, an unintended consequence was that a very important measure was also repealed that should be restored. Under the original proposal, section 301(a) au-

thorized the Secretary of Health and Human Services to carry out case management demonstrations—a combination of activities designed to insure appropriate use of medical care facilities; improve quality of care; control or reduce cost; insure proper referrals; and manage patient's episodes of care, disability, and rehabilitation.

The intent of the projects is to provide the Secretary and the Congress with the information necessary to: First, evaluate the appropriateness of providing case management services under the Medicare Program for Medicare beneficiaries with high costs of medical care; and second, to determine the most effective approach to implementing a case management system under the program for such beneficiaries.

Under section 301(a), health organizations in four States—Michigan, Iowa, Indiana, and Massachusetts—were awarded case management demonstration projects. Three of the projects were well underway when the recipients were informed that due to repeal, the Health Care Financing Administration would not be renewing their funding. The provision further provided a $2 million authorization level for each of 2 fiscal years for administrative costs in carrying out the projects.

I am very pleased that Senator COATES, Senator LUGAR, and Senator HARKIN have joined me today in introducing legislation which would reauthorized these very vital projects.

The spirling cost of health care has presented many challenges to government and to providers; we must continue to improve health care services for the elderly while controlling the cost of such measures. For this reason, it is crucial that we allocate funds to explore innovations which would reduce the cost of health care for current and future Medicare recipients, and which at the same time would provide more extensive care for the elderly using existing facilities.

The 1988 Medicare Catastrophic Coverage Act provided funds for such programs. It is imperative, Mr. President, that we recognize the importance of these projects and provide the resources necessary to permit them to proceed. I am sure my colleagues would agree that assuring Medicare recipients of the best and most cost-efficient health care should be among our priorities. It we seek to increase the availability of health care options for our Nation's elderly, we must invest in projects which are intended to locate areas of improvement.

Mr. President, hundreds of hours have been devoted to developing and refining the design and protocol for these projects. Providence Hospital has launched a comprehensive plan to inform all of the hospital's geriatric and primary care physicians about the project and the protocols to be implemented. In addition, they have developed a strategy for informing external agencies—such as nursing homes and home health care agencies—that will play a key role in the success of the project. The program will involve and benefit elderly patients in Michigan's Oakland County, northwest Wayne County, and southeast Livingston County. More importantly, the results of the project will benefit the Nation.

The following report reflects the progress Providence Hospital had made by the time that the case management demonstrations were repealed. I ask unanimous consent that it be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROVIDENCE HOSPITAL, SOUTHFIELD, MI
REPORT

PROJECT ORGANIZATION

Immediately after our notification of the award, Providence Hospital began formally organizing the Case Management Demonstration Project Steering Committee and the Case Management Demonstration Project Oversight Committee. The former group meets regularly to develop details of how the project will function. The latter group provides oversight to the entire project. In addition to large group meetings, many individual meetings and subgroup meetings have taken place over the last four months.

The Providence Hospital Board of Trustees formally accepted the terms and conditions of the grant at their September 15, 1989 meeting.

PERSONNEL

Job descriptions have been completed for a number of key positions, and the recruiting process is under way. We have developed financial arrangements with the co-principal investigators and the study design consultant. To date, we have incurred financial obligations totalling approximately $11,500 related to these positions.

In addition, we have formally extended an offer to the project director. We have also been identifying individuals who could potentially fill other key positions. Due to the uncertainties of the timing of funding, the Health Care Financing Administration (HCFA) has requested that we delay hiring additional personnel until the issue is resolved. Consequently, we will wait until funding is solidified before formally extending employment offers to clinical or support personnel.

Providence Hospital's geriatricians and primary care physicians will play a key role in the operation of the demonstration project. We are implementing a comprehensive information and orientation program for them. This will ensure their involvement with and support of the project even before it formally begins.

DEVELOPMENT OF COMPREHENSIVE PROTOCOL

Over the last few months, the Case Management Demonstration Project Steering Committee has developed a comprehensive protocol for the project. This protocol addresses the following issues:

The organizational structure, systems, and financial organization of the project as it relates to Providence Hospital

Procedures for claims submission, data collection, and project administration

Arrangements for case management referrals from hospitals or other institutions or individuals

All services to be rendered to the project participants

Quality assurance procedures

The detailed research plan

Procedures on terminating patients from the project during the operational phase and at the conclusion of the demonstration

Determination of active and inactive status of case managed patients

Patient assessment and reassessment

Training to be provided for case managers and caregivers

Reimbursement for case management services and Medicare noncovered services

Service authorization procedures, including detailed descriptions of what clinical and/or social support factors will determine patient eligibility

Proposed timeline for development, operation, and phase out of the project

Coordination of benefits with other payors

The above protocol has been written up in great detail and submitted to HCFA.

In addition to these items in the formal protocol, we are finalizing descriptions of which data elements will be gathered and the processes for entering and analyzing the data. We have also received a copy of the procedures to be followed by the external evaluation of the project by Mathematica Policy Research, Inc. of Princeton, New Jersey. Mathematica will conduct an extensive external review of our work and has established procedures for data collection and monitoring. We are in the process of evaluating these requirements and incorporating them into our research protocol.

DEVELOPMENT OF FINANCIAL AND OPERATIONAL SYSTEMS

Providence Hospital has finalized its budget projections for the demonstration project, including detailed estimates of personnel scheduling on a month-by-month basis. Financial and operational systems are currently being finalized. These include financial control and auditing systems, mechanisms for receiving and disbursing cash, and interface procedures with several other hospital departments (such as the admitting department, medical records, social services, etc.).

To date, Providence Hospital has received one check, from HCFA to cover part of the initial startup costs.

SPACE AND CAPITAL CONSIDERATIONS

We are finalizing arrangements for office location and have identified capital items that must be purchased for the project. HCFA has requested that we delay any capital or lease obligations until the funding issue is resolved.

DEVELOPMENT OF RELATIONSHIPS WITH PHYSICIANS AND EXTERNAL PROVIDERS

As indicated above, Providence has launched a comprehensive plan to inform all of the hospital's geriatric and primary care physicians about the grant and the protocols to be implemented. In addition, we have developed a strategy for informing external agencies (such as nursing homes, home health care agencies, etc.) that will play a key role in the success of the project.

Mr. LEVIN. Mr. President, I would also like to ask unanimous consent to include for the RECORD an overview of

the three demonstration projects this legislation seeks to reauthorize.

DEMONSTRATION PROJECTS

Case Management of the Elderly at Risk for Acute Hospitalization, Providence Hospital 18-P-99379/5-01

Providence Hospital is a tertiary care, 462-bed teaching hospital located in Southfield, Michigan. Case management services would be offered to three categories of elderly: (1) patients over 65 who visit one of Providence's primary care physicians or primary care outreach centers and have one of eight specified medical conditions; (2) patients admitted to Providence Hospital with one of eleven diagnoses associated with high rates of rehospitalization; and (3) any patient admitted to Providence Hospital from a nursing home or discharged to a nursing home. Providence estimated that they would be able to provide services to approximately 1,300 beneficiaries over the course of the demonstration.

The goals of the project are to reduce hospital admission and readmission rates, demonstrate that hospital admitting personnel and community primary care providers can identify individuals who would benefit from case management, and to demonstrate that case management is cost effective for all individuals discharged to extended care facilities. The applicant states that their goal is not to develop new services but to maximize access to resources already in the area.

Proposal for Demonstration Project to Case Manage Medicare Beneficiaries with Catastrophic and Chronic Conditions Residing in the State of Indiana—18-P-99396/5—Key Care Health Resources, Inc.

Key Care Health Resources, Inc., a wholly-owned affiliate of Blue Cross and Blue Shield of Indiana, the fiscal Intermediary for Medicare beneficiaries in the State of Indiana, will conduct this demonstration.

This project will examine the effects of case management on 2,500 high cost Medicare beneficiaries. Key Care's targeting of appropriate cases for case management will rely primarily on 1987 to 1989 claims data to isolate individuals with medical conditions of long duration that are chronic will repeated hospitalizations and ongoing patterns of care. This project will provide information on the success of using the claims history of Medicare beneficiaries to predict future costs, to evaluate the value of case management in controlling these costs, and to determine the acceptability of case management to beneficiaries.

Case Management Demonstration, Iowa Foundation for Medical Care—P-99399/4-01

Iowa Foundation for Medical Care (IFMC)—the Professional Review Organization (PRO) for Iowa and Nebrasaka—proposes to study a population admitted to the hospital with two chronic conditions, Chronic Obstructive Pulmonary Disease (COPD) and Congestive Heart Failure (CHF). IFMC has a wholly owned subsidiary, Sunderbruch Corporation, which has case management experience.

Case managers would have a caseload of 200 clients and coordinate care between the patient/family, the attending physician, and other providers. Participants in the study would be recruited by hospitals contacting the PRO when they admit an individual that meets the criteria for inclusion in the study. The design involves stratified random sampling, with 1,000 patients assigned to the experimental group and 1,000 assigned to the control group.

The "implied hypothesis" to that optimal management and assessment, combined with adquate discharge plannning and posthostial care, as well as an early recognition of increased need for a services, will lead to a reduction in repeated hospitalizations.

Mr. LEVIN. Mr. President, I urge my colleagues to support this important legislation. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CASE MANAGEMENT DEMONSTRATION PROJECTS RESUMED.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in subsection (b) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this section referred to as "MCCA").

(b) PROJECT DESCRIPTIONS.—The demonstration projects referred to in subsection (a) are—

(1) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(2) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(3) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(c) TERMS AND CONDITIONS.—The demonstration projects resumed pursuant to subsection (a) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to subsection (a), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

● Mr. COATS. Mr. President, in November of last year the Congress, responding to the outrage of senior citizens, repealed the Medicare Catastrophic Coverage Act [MCCA]. These older Americans were convinced, with good reason, that this legislation imposed financial burdens they could not bear and would not tolerate.

But the MCCA was a complex piece of legislation. And it included some important elements that remain worthy of our attention.

The original MCCA authorized the Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, to establish four case management demonstration projects. The purpose of these projects was to provide the Secretary and Congress with information necessary to evaluate case management services to beneficiaries with selected catastrophic illnesses, particularly those with high costs. In addition, they were to determine the most effective way to implement a case management system under the program for such beneficiaries.

Key Care Health Professionals, Inc., of Indianapolis, IN, was one of the four organizations that was awarded funds by the Health Care and Finance Administration to evaluate the value of case management. The study could have assisted up to 2,500 elderly Hoosiers over a 2-year period; and possibly saved Medicare millions of dollars. However, the MCCA law was repealed November 8, 1989, and the project funding was ended. Patients whose conditions would have allowed them to receive intensive home health care or extended care in a nursing home rather than hospitalization were denied that opportunity.

We are all concerned with providing safe, affordable health care to individuals that are currently on Medicare or will be in the future. At the same time, it is important that we ensure that the services rendered are necessary and beneficial. A coordinated case management component will ensure that participants are guided to wise choices among the range of nursing home and home health care alternatives. A case manager is trained to identify the most cost effective service that meets an individuals needs.

So, Mr. President, I am pleased to support S. 2958, which will reauthorize four Medicare case management projects that were originally authorized by section 425 of the Medicare Catastrophic Coverage Act [MCCA].

In 1988, national spending on health rose 10.4 percent to $539 billion. National health expenditures were 11.1 percent of the GNP in 1988. The old methodologies of simply cutting the Medicare budget have not been effective in the past. Unless fundamental improvements are made in the selection and delivery of health care services we will not have any realistic hope of curbing the rising cost of health care.

The Federal Government and private groups are producing major studies and recommendations for overhauling the health care system. Among them are the Pepper Commission, the Heritage Foundation, the Social Security Commission, the AMA, and many other provider and insurance groups. The problem is usually approached by concentrating on two facets of the question most popular in Congress: The uninsured population and long-term care.

Most of these studies suggest employer-based, national plans with large price tags, like the $66 billion Pepper Commission report. I believe that we must encourage innovative thinking and creative solutions to these com-

plex health care questions. Public-private partnerships that test ideas in a limited area with a carefully planned program are an attractive, cost-effective alternative to sweeping, unaffordable national programs. If one approach works in several States or a region, it has considerably more promise than an untested national program.

I have proposed and supported a number of innovative programs designed to cut the cost of health care and increase the quality of services available, including S. 1998, The Medicaid Waiver for long-term care demonstration projects, S. 2222, prepayment of death benefits to the terminally ill, S. 1194, the individual medical account, and S. 2617, the National Health Services Corp reauthorization, which included a joint effort with Senator HATCH on an amendment to improve a home health care demonstration program.

As I have stated in the past, I believe that we must pursue every available means to lower costs and improve the quality of health care. By funding case management demonstration projects for Indiana and the rest of the Nation we have an opportunity to better evaluate cost-effective ways of caring for Medicare patients suffering serious illness or injury.

Mr. President, supporting Senator LEVIN's bill to fund case management demonstration projects for Indiana and other States is another opportunity to evaluate cost-effective ways of caring for Medicare patients suffering catastrophic illness or injuries.

I urge my colleagues to support this bill.

Mr. President I ask unanimous consent that the following information from Key Care Health Professionals be placed in the RECORD at this point in the debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KEY CARE HEALTH RESOURCES, INC.—MEDICARE CASE MANAGEMENT DEMONSTRATION PILOT REPORT

I. INTRODUCTION

This report addresses the tasks undertaken and their outcomes from award to project termination. In addition, a discussion is submitted to present the variations or lack of execution between those tasks and time frames in the original proposal and actual develop of mental activity. Recommendatations are discussed in the event that a new solicitation for Medicare case management should occur.

Key Care Health Resources, Inc. is a wholly owned subsidiary of Blue Cross Blue Shield of Indiana. Key Care has provided managed care services for over 1 million lives since 1987. Blue Cross Blue Shield of Indiana is also the Fiscal Intermediary for Medicare Part A and Carrier for Part B services.

The Health Care Financing Administration (HCFA) was authorized by Section 425 of the Medicare Catastrophic Coverage Act of 1988 to conduct four case management demonstrations. Key Care was selected as one of the sites.

Key Care's demonstration project proposal was designed to examine the effects of case management on the small segment of Medicare beneficiaries who are high cost users of medical care. In addition to this primary objective, the project was to determine the success of using the claims history of Medicare beneficiaries to predict future applications of case management. As a third objective, the project proposed to determine the acceptability of case management to beneficiaries.

Five hypotheses were to be examined.

1. Within Medicare benefits, case management techniques would be effective in the Medicare population for targeted medical conditions.

2 Identified claims cost savings would exceed administrative costs when applied to designated diagnoses or procedures with the Medicare beneficiary population.

3. Analysis of prior Medicare claim patterns would identify Medicare beneficiaries who showed potential for case management.

4. Case management options would be preferred by beneficiaries over alternative inpatient care options.

5. Once the case management program was established, the beneficiary would voluntarily comply with it.

The study design would have randomly assigned Experimental and Control Groups. The Experimental Group would be divided into Offer/Accept and Offer/Reject groups. The pool of subjects would come from identification/solicitation through analysis of prior claim history, practitioner referrals and self-referral. The population, size was to be all Medicare beneficiaries in the State of Indiana serviced by the Indiana Fiscal Intermediary.

In the start up period, an algorithm would be developed and applied to prior Medicare claim experience obtained from the Fiscal Intermediary to determine those beneficiaries and conditions most amendable to case management. Individual cases for case management would be selected based on potential for cost savings and medical protocols.

Case Management would consist of patient assessment, alternative care planning, service delivery, monitoring and assessing effectiveness of the alternative care plan. No exceptions to the current or future Medicare benefit structure would be written by the registered nurse case managers in alternative care planning.

Data for analysis would be collected from the Fiscal Intermediary and the Case Management Operations process to prove or disprove the hypotheses. Standard procedures for comparing results between groups would be used in data evaluation. These were to include parametric and non-parametric measures, including ANOVA, ANCOVA, multivariate analyses and multiple regressions. Additionally, economic benchmarks would be established for hypotheses testing. These would provide practical bottom-line measures to prove or disprove hypotheses. All analyses models and structures were presented in detail.●

By Mr. BAUCUS (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. SYMMS, Mr. CONRAD, Mr. BURNS, Mr. BURDICK, Mr. DURENBERGER, Mr. BIDEN, Mr. DODD, Mr. LIEBERMAN, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. HARKIN, Mr. BOSCHWITZ, Mr. ROBB, Mr. COATS, Mr. SIMON, Mr. DECONCINI, Mr. LEVIN, Mr. GRASSLEY, Mr. RIEGLE, Mr. COCHRAN, Mr. SPECTER, Mr. PELL, Mr. HATFIELD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. DIXON, Mr. DANFORTH, Mr. BOREN, Mr. LUGAR, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. INOUYE, Mr. ADAMS, Mr. ROTH, Ms. MIKULSKI, Mr. D'AMATO and Mr. KERRY):

S. 2959. A bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits; to the Committee on Finance.

TRANSFER TO RAILROAD RETIREMENT ACCOUNT

● Mr. BAUCUS. Mr. President, today I am introducing, along with Senator HEINZ and 41 other colleagues, including a majority of the Senate Finance Committee, legislation to ensure the solvency of the railroad retirement trust fund. This legislation is for the benefit of the almost 1 million railroad retirees and 300,000 current railroad employees who are relying on the solvency of this trust fund for their retirement.

I am proposing a 2-year extension of a provision of current law that transfers the proceeds from taxing tier II railroad retirement benefits from the general fund in the Treasury Department to the railroad retirement trust fund.

Congress initially authorized this transfer in the 1983 railroad retirement amendments. That authorization expired in 1987. Since then, Congress has extended the transfer twice through September 30, 1990. We are now awaiting a report on the solvency of the railroad retirement program from the Commission on Railroad Retirement Reform. The Commission's report is due October 1990.

This legislation is designed to provide Congress adequate time—until September 30, 1992—to review the Commission report without the railroad retirement account suffering the decreased cash flow resulting from the termination of the transfer provision.

Mr. President, this extension would not aggravate the Federal budget deficit. The proposal simply maintains the present practice of transferring tax receipts from the Treasury account. The proposal is supported by rail management and labor.

I want to thank my colleagues for their strong support of this measure.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 30, 1990.●

● Mr. HEINZ. Mr. President, today Senator BAUCUS and I are introducing a bill to extend for 2 years, until September 30, 1992, the transfer of railroad retirement tier 2 income tax receipts to the Railroad Retirement Account. Under current law the transfer provision is scheduled to expire at the end of this fiscal year, September 30, 1990.

The Heinz-Baucus bill would strike the expiration date of this provision and thereby continue the reinvestment of income tax receipts from the taxation of railroad retirement tier 2 benefits into the Railroad Retirement Account. The reasons for such a transfer are manifold. Last year Senator BAUCUS and I, as well as 13 other members of the Senate Finance Committee, sought to extend this transfer provision for 2 years to September 30, 1991. However the final conference agreement on budget reconciliation only provided for a one year extension. The most recent extension follows a 2-year extension I sponsored in the 100th Congress. The time has come to make this provision permanent.

This change would protect a critical source of revenue for the Railroad Retirement Account. Section 502 of the Railroad Retirement Solvency Act of 1983 requires the Railroad Retirement Board, the Agency which administers the Railroad Retirement Act, to submit annual reports to Congress on the actuarial status of the Railroad Retirement System. In its section 502 report for 1989, the Board noted that extending the tier 2 income tax transfers 5 or 10 years would eliminate cash flow problems in the Railroad Retirement System over the next 25 years. Extending the transfer for 2 years would eliminate cash flow problems for the immediate future.

This is solid precedent for extending the provision for transfer of tier 2 income tax revenue to the Railroad Retirement Account. Transfer of this revenue would be consistent with the manner in which revenue obtained from the taxation of Social Security and tier 1 benefits is transferred back to the payer accounts for those benefits. It is to be noted, in this regard, the tier 2 benefits, like Social Security and tier 1 benefits, are social insurance entitlements provided by a Federal statute, are paid from a Federal trust fund, and are financed by payroll taxes imposed by the Internal Revenue Code.

Revenue from taxation of tier 2 benefits, like the revenue from taxation of Social Security and tier 1 benefits, has never been a part of the general fund. All of these tax revenues were created in 1983 in legislation designed to bolster the solvency of the Social Security System and the Railroad Retirement System. A difference, however, is that the transfer to the Social Security trust fund of revenue from taxation of Social Security benefits is permanent, while the transfer to the Railroad Retirement Account of tier 2 income tax revenue is temporary. The benefit taxation revenue is even more critical to the Railroad Retirement System than it is to the Social Security System. Safeguarding the benefits provided under the Federal Railroad Retirement Program is every bit as important to individuals covered by that program as safeguarding Social Security benefits is to people covered by the Federal Social Security System.

This bill would be a significant step toward providing a sound financial footing for the Railroad Retirement Account thereby providing better assurances of continued benefits to the Nation's railroad retirees and would do so with no revenue impact or adverse budget consequences.●

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2960. A bill for the relief of Janice and Leslie Sedore and Ruth and George Hillman; to the Committee on Finance.

RELIEF OF JANICE AND LESLIE SEDORE AND RUTH AND GEORGE HILLMAN

● Mr. LEVIN. Mr. President, today, I am introducing, along with my colleague Senator RIEGLE, a private relief bill on behalf of two Michigan families, Leslie and Jane Sedore and Ruth and George Hillman. The bill seeks to reimburse these two families for taxes and penalties unjustly assessed on supplemental security income (SSI) payments they received on behalf of their severely disabled forster children in the early 1980's.

The Hillmans and the Sedores are families of modest means who performed a remarkable service for some 20 years by providing a home and care for over 100 seriously impaired foster children. The children taken in by these two families were the types of kids that oftentimes end up lost in large institutions which are unable to provide the kind of individual attention and patient, loving atmosphere found in outstanding foster homes such as the Hillmans and the Sedores.

It takes uniquely qualified individuals to devote the enormous amount of time and energy required to give these children a stable and healthy home. The Sedores and the Hillmans fit that bill. They were the kind of foster parents state and federal authorities dream of finding to care for hard-to-place kids.

Mr. President, at this point I ask uanimous consent that a June 5, 1984, Detroit News article and an April 19, 1984, Charlotte Republican Tribune article describing the special work of the Hillmans and the Sedores be inserted in the RECORD following my remarks. In the District News article, Mrs. Sedore is described by the regional vice president for the Michigan Foster Parents Association as, "a gal with the skills of a Ph.D. in clinical psychology and the wings of an angel."

Unfortunately, these exceptional foster parents were rewarded for their extraordinary efforts by having to pay to the IRS thousands of dollars in wrongfully assessed back taxes and penalties. These two families tried to fight the IRS through proper legal channels but did not have the resources to engage in a long, drawn-out battle. Both families paid the penalties and taxes demanded by the IRS and then made the difficult choice to withdraw from the Foster Care Program because of this IRS action. Their withdrawal was a terrible loss for the State of Michigan and, in particular, the disabled children who could have benefited from their care. Two dedicated, exceptional families are no longer with the Foster Care Program and, as a result, there are two less stable, healthy homes for the placement of special needs children.

Mrs. Sedore described the consequences to the six children she had been caring for during the 7 years prior to her departure from the program. Her foster children had to be placed in other situations, and she wrote to our office describing just what that meant.

We are no longer participating in the foster parent program, although we have kept our license and hope that some day we will be able again to share our home with these children.

On July 1, 1984, all six of our foster children for so many years were moved to other homes. Out of the six foster children, two still remain in the same homes that they were placed in. One has been moved from his placement home to the Coldwater Institution when the new family no longer wanted this child. Two children have changed homes twice and one is at the Jonesville Michigan Manor for Boys. The Jonesville Manor is paid $97 per day for this child's stay and supposedly is a non-profit organization. He was doing great here in our home and he had a home, mother, father, and was loved. I am able to see him when he comes home on vacations. I get very upset because he is still wearing the same clothing he left here with 2 years ago, now in bad need of repair. He needs a hair cut, so I see that it is done when he is home, the soles

are ripped off his shoes, and he is always asking for a hug.

Mr. President, the efforts to right this wrong have been met with bureaucratic doublespeak and the vagaries of the legislative process. We have pursued almost every avenue available both administratively and legislatively to obtain restitution for those two families, yet, we have been frustrated at every turn. This private relief bill may be our last hope.

Let me explain what has happened.

In December 1982, Congress enacted section 131 of the Tax Code in order to clarify the tax-treatment of foster care payments. Individuals involved in the foster care field had complained that it was unclear whether or not foster parents were required to keep detailed expense records of how they spent foster care payments in order to have these funds excludable from gross income for tax purposes. They argued that nearly all foster care payments were set at levels below the federally accepted cost of raising a child and, therefore, detailed expense records should be unnecessary.

Section 131 provided that, as a general rule, gross income does not include qualified foster care payments and the legislation made that statutory clarification retroactive to tax years beginning with 1979. The law then went on to define a foster care payment as a payment made by a state or child placing agency which is "paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home."

Foster care agencies in Michigan, and I assume around the country, saw section 131 as an important victory. In Michigan, notices were sent to foster families stating that because of section 131, it was now clear that expense records for foster care payments were unnecessary. The Michigan Federation of Private Child and Family Agencies issued a January 14, 1983, memo to its membership, entitled "Good News for Foster Parents," in which it said in underlined words that the amendment—Section 131—"excludes foster care payments from being taxed as income."

But apparently the IRS was not willing to accept this statutory change. The key—and unfortunate—term in that section of the Code was reimburse. The IRS proceeded to interpret reimburse to mean that foster care providers could still be asked to keep detailed expense records to justify being reimbursed for foster care service.

In 1982 the IRS audited the Sedores and, shortly thereafter, the Hillmans. These audits were triggered by 1099 forms which had been sent to the IRS by the State of Michigan declaring the foster care payments these families—and other foster families—had received. The State of Michigan, as we later learned, was operating under a misunderstanding of the law. 1099 forms were not appropriate for these foster care payments, and the State of Michigan shortly thereafter stopped this practice.

However, as a result of these 1099's, audit notices were sent to some 60 families in Michigan. These audit notices, which claimed an assessment of a significant amount of back taxes and penalties based on the 1099 forms, were a real surprise to the foster care community. Some of the families who received them contacted my office; others contacted the foster care agencies. Many were worried that the IRS's action could result in the loss of many excellent families from the Foster Care Program.

My office began to work with the IRS and the State of Michigan to get to the bottom of the problem. Although we were able to do that to some extent for everyone else, it was, unfortunately, too late for the Sedores and Hillmans. Apparently their audits had already progressed too far by the time we got the State of Michigan to discontinue the issuance of the 1099's and the IRS to discontinue followup on its audit notices.

To my knowledge, the Hillmans and the Sedores are the only families who actually underwent the full audit process and paid the extra taxes and penalties which the IRS demanded. The IRS appeared to back-off, and rightfully so, pursuing this matter with any other of the families who had received notices. One of the other foster care parents with whom we had been working contacted my office to let us know she had visited the local IRS office regarding her audit notice. She was told the IRS was in contact with my office and things were being taken care of. She was also instructed to write a letter of explanation to the IRS and, when that letter was received, that would be the end of the matter. The Hillmans and the Sedores were not so fortunate.

As a result of these audits, the IRS determined that these two families were actually in a trade or business. The IRS treated the SSI benefits they received directly on behalf of the disabled children as income to their "trade or business" which, the IRS said, then could only be offset by documentation of actual expenses. Each family received, in addition to a foster care payment from the State, Supplemental Security Income benefits from SSA on behalf of their disabled children.

An attorney for the families tried to convince the IRS that these SSI benefits were really foster care payments and received directly by the families only because of the unique procedures established by the Michigan Department of Mental Health. The Department of Mental Health agreed, but the IRS wouldn't listen.

We argued, moreover, that the SSI payments are not taxable in any event. We even got a letter from the Social Security Administration stating that position explicitly, but the IRS wouldn't listen to that, either.

Apparently, the IRS had decided that the Hillmans and the Sedores were not dedicated foster parents, but a trade or a business out to make a profit, and the IRS wanted to tax that profit. This, of course, is sadly ironic, since foster care payments historically don't compensate a family for the true expenses of thier provisions and care.

The families had not kept receipts for their expenses, because they believed that such recordkeeping was not necessary for foster care payments. The IRS assessed back taxes and panalties which totaled $12,143.55 for the Sedores and $8,512.70 for the Hillmans. After trying to fight the IRS, the families threw up their hands, paid the amount and left the program.

As soon as I learned of this situation in 1984, I directed members of my staff to meet with the IRS and with Michigan officials to get to the bottom of this issue. I sent several letters to the IRS requesting that they clarify their apparent new position of treating foster parents as self-employed individuals for tax purposes and that they provide me with the specific authority under which they had taxed the SSI payments to these foster parents.

The IRS failed to answer my first letter regarding this important issue. At one point, a member of my staff was calling the appropriate IRS official approximately three times a week to gain an answer. When correspondence was finally received from the IRS, the response to specific questions raised by my letters was either nonexistent or vague. At one point, I asked the IRS 22 specific questions of which 17 were unanswered.

Just last year the Michigan Residential Care Association of Michigan wrote to me asking for the official IRS position on the taxability of SSI payments which are used as foster care payments, because they were still not sure what the IRS position is. That's 5 years after our efforts began to get a straight answer out of the IRS. I forwarded that letter to the IRS, and this time the IRS did respond fairly promptly, but, their answer was that this remain an open question. They said they continue to have an open revenue ruling on this issue. That's 5 years without a straight answer by the IRS on an issue of real significance to thousands of families. That's simply outrageous.

After it became apparent that trying to work with the IRS to seek an administrative resolution to this problem

was not possible, I turned my attention to legislative proposals. In 1986, Congress modified section 131 to clear up any lingering confusion by taking out the word "reimburse". It was possible, we thought, that this modification would resolve the matter for these two families. However, the story takes yet another twist.

The legislation making this modification did not go back to the tax years in which the Hillmans and the Sedores had been affected. Moreover, the IRS refused to give a straight answer on the taxability of SSI payments received directly by the foster parent on behalf of a foster child.

In 1987 my brother, Congressman SANDER LEVIN, in the House, and I introduced legislation to make the 1986 provision retroactive to 1980 to cover the Hillmans and the Sedores. Given my experience with the IRS, our legislation also sought to further clarify and appropriately broaden the definition of a qualified foster care payment to ensure that SSI payments for children with special needs are excludable from the gross income of the foster parent.

In another frustrating turn of events, after successfully including this provision in both the first House and Senate technical corrections tax bill of that year, this larger measure was set aside and a stripped down version was passed without any miscellaneous issues—including the provision for these two families.

In 1989, after finally getting the IRS' attention by threatening to hold up the nomination of the IRS Commissioner, we got a response from the IRS on these specific cases. The response was—and here's another of the many ironies in this story—that it was too late to do anything for these families administratively. The statute of limitations for seeking administrative relief had expired. Talk about bureaucratic abominations.

We went around and around with the IRS for years trying to pin them down on the specifics of these two cases, and they responded repeatedly with obfuscation. Once we got their attention by threatening something they really cared about, we got them to be specific, but they had accomplished their purpose. Their hands, because of the delays, were tied. If this situation doesn't define "catch 22," I don't know what does.

Now, it is 1990. These two families remain uncompensated and the injustice, here, remains uncorrected. Virtually every road to recovery has been explored. One option we have left is to pass this bill to direct the IRS to return these unjustified tax and penalty payments to these two families.

Mr. President, I and my staff have talked with a number of Members and committee staff about this matter, and many have said they have not heard of a more sympathetic case. These two families who gave so much to kids whom many would ignore, are still out there waiting to have their faith in the system restored. Unfortunately we will not be able to compensate both parents in the Hillman family. Mr. Hillman has died.

Private relief bills are appropriately reserved for those instances in which individuals are caught in unjust situations created by forces beyond their control where other avenues for rectifying the matter have been exhausted. This situation is a compelling example of when private relief is appropriate. I hope we will be able to act quickly on this legislation and give these families what this behemoth of a government has unjustly taken from them and now only fairly should return.

Mr. President, I ask unanimous consent that two articles describing this situation be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Detroit News, June 5, 1984]

IRS RULING THREATENS FOSTER CARE

(By Tim Collie)

LANSING.—Jan Sedore cares for six mentally retarded foster children in her modest ranch-style home, an activity that raised the eyebrows of the Internal Revenue Service.

Three autistic children sleep about two hours each day and it isn't unusual to walk into a bedroom to find one of them has chewed on a window sill. The kids have the run of Mrs. Sedore's house in Grand Ledge, where they sometimes lay waste a piece of furniture. And one boy frequently urinates down heating registers.

Mrs. Sedore's home is one of 7,200 Michigan foster homes licensed to care for 17,000 children. Hers doesn't much look like a money-making venture. But to the eyes of the IRS this woman runs a business—one that does quite well.

In a move that threatens the entire nation's foster parent network, the IRS forced Mrs. Sedore to pay $8,000 in income taxes going back to 1980 on the Social Security payments she receives for each child.

The agency argues that unless foster parents can fully document how they spend benefit checks received for foster children, the money will be taxed as income.

Suddenly, the prospects of a tax audit raise unexpected worries for foster parents. Both state and national foster care officials say they have never heard of such a policy. They have been advising parents for many years that benefits are not taxable as income.

"What bothers me is that they told me for years that this money is not taxable, but now the IRS says it is," said Mrs. Sedore, who has cared for 104 children in 18 years.

"I've taken them all around the state on vacations," she said, pausing to tell her deaf foster daughter in sign language to go watch television in the den. "Money is always being spent on them. But if I take my kids out to buy a hamburger I don't keep a receipt."

In 1982, the IRS told Mrs. Sedore she was the subject of a federal audit concerning difficulty-of-care payments she received from the state for several children. The IRS decided that it could not tax these allocations but then examined the Supplemental Security Income checks.

After an internal inquiry to its office in Washington, the IRS decided the $471.50 Mrs. Sedore received monthly for each child was taxable income unless she could document in detail how she spent the money. Since she had always been told not to list that money as income on her tax returns, Mrs. Sedore hadn't bothered to keep records.

At least one other foster mother in the state is the subject of a similar IRS inquiry. Ruth Hillman, a foster parent for 19 years who currently keeps four severely mentally retarded children in her Lansing home, was contacted in January and told by IRS investigators that she would be the subject of an audit this summer concerning her tax returns dating to 1981.

"Our living room is a hospital room," said Mrs. Hillman as she sat on her couch. In front of her a 10-year-old girl, blind and deaf with a steadily deteriorating brain, sat sleeping in her wheelchair. She is so hyperactive that Mrs. Hillman must give her a tranquilizer to put her to sleep. The girl's heavy rhythmic breathing rose above Mrs. Hillman's voice and the sound of the soap opera on the TV set.

"We really don't know what we spend on these children," Mrs. Hillman said. "It would include the heat, the electricity, depreciation on the house, bed sheets . . . I don't know. Do you keep your grocery receipts for four years?

"We were always told it was illegal to become a business with these children. I never realized I was in a business anyway."

An IRS spokeswoman, however, said the two cases do not reflect any change in the agency's policy—that SSI payments have always been taxable as income if the parents of recipients could not demonstrate how they spent the money on the children. "That money is included in gross income if the parents cannot show that is being used as a reimbursement for the child's expenses," said Mary Tamala of the Detroit IRS office. "They are providing business services and I would think that they follow generally accepted business practices like recording their expenditures."

But Michigan Department of Social Services (DSS) spokesman Patrick Vaughan said he is "baffled" and "gravely concerned" by the IRS actions. "I've talked to every expert on foster care in this department and none of them have ever heard of anything like this. What really puzzles us is that this action appears to contradict the law."

Vaughan said DSS officials were looking into the matter but were not getting directly involved since the Sedore children fall under the auspices of the state Department of Mental Health (DMH). In Michigan, foster children who are the victims of abuse or abandonment (those who would be wards of the juvenile court system) are administered by the DSS. Other cases fall under the Department of Mental Health.

State mental health officials said they were not aware of Mrs. Sedore's problem. "These payments have not been taxed before to our knowledge," DMH spokesman Tom DeLoach said. "If that were suddenly reversed and they are taxed, I would think we would have to rethink our entire foster care system."

Representatives of foster parent associations agreed that the Sedore case, if it represents a new IRS policy, marks the beginning of a "grave threat" to foster parents.

Michigan already has a 25 percent turnover of foster homes each year. They said the prospect of a huge back tax bill could force many parents to give up their children and discourage others from opening their homes. "It's going to destroy the interest of a lot of people in foster parenting," said John Peck, a lobbyist and regional vice-president for the Michigan Foster Parents Associationa.

"Here is a gal (Mrs. Sedore) with the skills of a Ph.D. in clinical psychology and the wings of an angel and the IRS harasses her until she just throws up her hands and says the hell with it," Peck said.

Carl Brown, president of the Foster Parents Association of America, said his organization maintains that SSI payments cannot be taxed and had never heard otherwise. "I would venture to guess that the vast majority of foster parents don't keep records of how that money is spent," Brown said from his home in South Carolina.

"It's difficult now recruiting people to be foster parents. If they start taxing the money they receive for their children as income then it's going to be hard to get anybody to become a foster parent."

Such an effect could also affect the taxpayer. By stressing at-home care instead of institutional care, Michigan's foster care system saves millions of dollars each year. For example, keeping a child at Mrs. Sedore's residence costs about $25 a day. In an institution that same care would cost about $100—double that for severe cases.

"Something else that strikes us about this matter is that typically foster parents must spend money out of their own pocket because the government payments don't cover all the costs of raising a child," Vaughan said.

Commented Mrs. Sedore: "The money is adequate if you don't do anything extra for them."

She plans to give up her children in July if the policy is not changed. The tax bill, along with ever-increasing paperwork, has taken all the fun out of foster parenting, she said.

Instead of debits and credits, love and understanding of her foster children have been her chief concerns, Mrs. Sedore said. "Eight thousand dollars hurts but what hurts the most is that may kids have been with me seven years and now I have to place them in other homes. If I can't keep all six of them then I won't keep any of them—I cant't pick and choose among my children."

[Charlotte (MI) Republican Tribune, Apr. 19, 1984]

SUPER MOM TO RETIRE

(By Michelle Smith)

MULLIKEN.—When July 1 rolls around, there will not be as much hustle and bustle at the Sedore house. That is when Jan Sedore, a foster mom to more than 100 children over the past 17 years is retiring.

"It will be the hardest day of my life to send my kids away," said Sedore. She is looking forward to her change of pace and time for solitary fishing trips, working on her crafts and pursuing her love for genealogy, but she will miss the kids and will always wonder about them.

If you want to see organization in action, drop in on Jan before her retirement date of July 1. Show up around 6 a.m. when she is in top form, assisting in baths, hair washing, dressing and cooking breakfast. Don't be surprised if you are asked to scramble some eggs or flip a few dozen pancakes. Breakfasts are hot and nutritious at this house, the kind that don't come out of a box.

The foster kids, whose ages range from 12 to 15, are all handicapped and have a wide range of disabilities. The group includes three autistic children, a hearing impaired child, a child confined to a wheel chair who is both mentally impaired and physically handicapped because of abuse, and an emotionally impaired child.

Jan's home is licensed through the Community Mental Health Board. The caseworker assigned to the foster children is Lynn Little. She said Jan has gone beyond the role of foster parent.

"The most wonderful and unique thing Jan has done for the children is community awareness. She takes the children everywhere," commented Little.

Taking six handicapped children on vacations or weekend trips takes more organization, stamina and patience than most people have, but Jan really seems to take it in stride. Over the past year they have visited Sea World, Mackinac Island, Bonner's in Frankenmuth, ridden a dune buggy, swam in Lake Michigan and camped several times.

Jan has developed some special techniques for their trips. "When we camp, the children cook, clean, roll sleeping bags and carry water," Jan explains. She has one child who will crawl out of his sleeping bag, but not if he is stuffed in head first. Once all the kids are in the tent, she makes absolutely certain she is the one sleeping next to the door, to prevent her night wanderers from getting out.

Night wandering was also a problem at home. One of her autistic children rarely sleeps. "Five minutes is like five hours for her," Jan explains. Because the child would leave her bed and eat anything in the refrigerator, including whole onions and packages of raw hamburger, a delayed alarm was installed on her bedroom door.

Her kids have proven how well they can behave on their various trips. "We take them to the best restaurants and they are always invited back. We have had resort people say our children act better in public than so called normal children," Jan brags.

"I'm strict, I demand they act like we all want our children to act. Because they are handicapped does not give them the license to act the way they want," Jan explains.

Although Jan started out caring for normal children, she said she prefers the handicapped kids. "These kids generate so much love, they appreciate everything we do."

Jan, the natural mother of three grown children, sees her role as teaching the children to get along the best they can in the real world. The children are required to dress themselves, she explains, "but that doesn't mean I don't have to turn a shirt around for one or rebutton a sweater for another." Each child is assigned household chores, such as taking their plates to the sink, emptying waste baskets and carrying laundry downstairs.

By 8:10 a.m., the bus has the children on their way to Meadowview School in Charlotte, and Jan can sit in the large, cheery kitchen of her home on Wheaton Road, and enjoy her first cup of coffee of the morning and perhaps find a few minutes to chat with her friend and assistant, Bobbie Reed, also of Mulliken.

It's not surprising it takes the two of them to do what they do. There are meals to plan, piles and piles of laundry to do, a doctor appointment to run to and a house to clean. Then there is keeping up with communications with the children's school and to the caseworker. Jan said she started having a helper about five years ago. Bobbie came on board in 1980 when she consented to work "for only a few months as a way to earn money towards a vacation". The fact she is still there shows her love for her work.

It is obvious sitting in Jan's house that she amazingly does find time to do other things beside cooking, caring and cleaning. Her oil paintings dot the walls. In one corner are two huge trays of beautiful homemade Easter chocolates she has created for the childrens' baskets. She made the childrens' clothes until a few years ago.

Take one day at a time and look at it and say tomorrow will be even better, is the philosophy Jan said she lives by. "If you cried every time something went wrong, you'd cry every day around here," she laughs.

Jan and her assistant Bobbie said they couldn't last without keeping their sense of humor. When the two tell stories about their experiences it is obvious they cherish more moments that not. They have obviously been able to see the bright side and their attitude is reflected in the happy faces of the foster children.

Jan said she has always held one secret goal throughout the past 17 years. "I have always hoped one of my children will be returned to their natural mother." Although plans are not finalized, it is nearly certain her big dream will come true when she retires. One natural mother, who relinquished custody of her child several years ago has told the caseworker she would like to have her child returned to her as of July 1.

Information about foster parenting can be obtained from the Community Mental Health Board, which licenses and supervises foster homes in the tri-county area.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. ADAMS, Mr. SIMON, Mr. HARKIN, Mr. PELL, Mr. DODD, Mr. REID, Mr. METZENBAUM, Mr. BINGAMAN, Mr. INOUYE, and Mr. AKAKA):

S. 2961. A bill to amend the Public Health Service Act to promote greater equity in the delivery of health care services to women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes; to the Committee on Labor and Human Resources.

WOMEN'S HEALTH EQUITY ACT

Ms. MIKULSKI. Mr. President, this afternoon we are introducing the Women's Health Equity Act of 1990. I am introducing this legislation on behalf of myself, Senators ADAMS, KENNEDY, HARKIN, SIMON, DODD, METZENBAUM, PELL, and REID. This package of 18 initiatives specifically addresses, for the first time, the many unmet needs of women within the American health care system.

These needs are too often overlooked. From 1979 to 1986, the death rate from breast cancer was up 24 percent—yet no one knows why. No research is being done.

The United States ranks 22d in infant mortality among developed na-

tions. Heart disease kills more women than any other cause, yet virtually all heart disease research is done on men.

This is a disgraceful pattern of neglect, a situation that must be changed. The Women's Health Equity Act is designed to address the worst abuses—and to set the agenda for better health care for women in the 1990's and into the new century.

This bill is the product of many efforts, combining bills originally introduced by many of my fellow Senators. I am proud to introduce this legislation on behalf of my Gallahads: Senators ADAMS, KENNEDY, HARKIN, PELL, REID, DODD, SIMON, and METZENBAUM, all of whom have worked tirelessly for the cause of women's health.

In the House, 48 Members of the Congressional Caucus for Women's Issues are working with Representatives SCHROEDER and SNOWE to gain passage of a companion measure.

The legislation is divided into three broad categories. Title I, research, attacks the medical research establishment's traditional indifference to women's health concerns. Title I would broaden research efforts in such fields as contraception and infertility, breast cancer, AIDS in women, and osteoporosis.

Additionally, three programs would be created within the Department of Health and Human Services to direct and coordinate an expanded women's health promotion and research effort. Finally, the NIH and ADAMHA would be required to include women and minorities in research study populations, and to consider the composition of study populations when evaluating grant applications.

At every level of treatment, women lack the information and the resources necessary to make informed choices about their health. Title II, services, would provide broader education programs and greater access to treatment. Teenage girls, poor women and older women would particularly benefit from an expansion of Medicare and Medicaid programs; and a change in employee health insurance programs.

Title III, prevention, brings the power of preventive medicine to women, attacking public health problems that needlessly kill, cripple, and sterilize them. Early detection of cancer, better treatment for osteoporosis, and prevention of sexually transmitted disease will save and improve thousands of lives every year.

Last week we were all shocked to learn that Mrs. Marilyn Quayle was forced to undergo emergency surgery related to cervical cancer. Those of us from Maryland were shocked as well to learn that Baltimore's first lady, Dr. Patricia Schmoke, had to be hospitalized for a mastectomy.

God willing, both women will survive this dread disease because of early detection. But, tragically, not every woman has access to life-saving pap smears and mammograms.

Women's lives are being needlessly endangered—because we do not provide access to affordable health care; because the tests women receive are not accurate; and because the attitude of our medical and research community is too often one of sexism or indifference.

Every woman, regardless of her income or insurance policy, must have access to health services which keep her alive. These services are not exotic nor exorbitant—they are called pap smears and mammograms.

We're not just talking about poor women. With mammograms costing as much as $150, hundreds of thousands of women are forced to weigh the cost of their own health against keeping a roof over their heads or paying for their own children's health care.

Paying for these tests is not enough. There must be follow up. The New York City Department of Health neglected 2,000 pap smears—left them unanalyzed and unreported. No news is not good news for these women. Their lives are in danger.

Two pieces of legislation I introduced earlier are a part of the Women's Health Care Equity Act. The Breast and Cervical Cancer Act provides grants to States to develop comprehensive cancer screening programs.

The second bill requires Medicare to pay for mammograms for elderly and disabled women—a major expansion of preventive coverage.

Access alone is not enough. Accuracy counts—in the most important way of all—because we count mistakes in lost lives.

Last week I met with a grieving father, a widower whose wife died because of a misread pap smear. But 2 years ago I introduced legislation to clean up the mess in our clinical labs. The President signed the bill into law 1½ years ago, yet nothing happened, no rules were ever published. HCFA says it's in a hurry, but we're still waiting.

We've discovered tremendous problems in mammography. Unlicensed technicians are performing mammograms in 24 States. And a State inspector in Colorado found that 50 percent of the mammography equipment in the State was faulty.

Perhaps the greatest challenge is the medical and research establishment's attitude toward women. Women are not trained to make informed decisions about their health. Their doctors should be. Yet 9 out of 10 doctors don't follow the American Cancer Society's guidelines on rcommending mammograms.

Studies have shown that women must be much sicker than men before doctors will perform bypass surgery. Women have not only been ignored in research, they have been actively excluded.

In 1987, NIH spent less than 14 percent of their research budget on women's health projects; there is no OB-GYN research branch, and only three researchers out of 2,000 at the whole institute specialize in OB-GYN. And the famous study that we've all heard so much about, the one where 22,000 subjects were watched to see if taking aspirin reduced the risk of heart attack, did not test one single woman.

This is blatant discrimination. It is inexcusable, unforgivable, and we will not allow it to continue.

That is why I will leave here to introduce, on the Senate floor, the Women's Health Equity Act of 1990.

I am pleased that my colleagues have joined me in this important job. Like the companion bill introduced in the House last week, this bill says: No more second-class treatment.

We can't carry 14th century attitudes about women's health into the 21st century. I urge the Senate to take action and to pass this critical piece of legislation.

Mr. President, I ask unanimous consent that the factsheet prepared by the Congresswomen's Caucus, backing up this legislation, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WOMEN'S HEALTH EQUITY ACT OF 1990

TITLE I—RESEARCH

1. The Women's Health Research Act: Creates three new programs within the Department of Health and Human Services. An Office of Women's Health would be established under the offices of the Assistant Secretary for Health and the Surgeon General to initiate and coordinate health promotion activities within all divisions of the Department. An Office for Women's Health Research and Development would be created at the National Institute of Health to identify research needs, support and coordinate research between the various institutes, and monitor inclusion of women in clinical study populations. Finally, the legislation directs NIH to establish an intramural program in obstetrics and gynecology to initiate research and conduct clinical trials.

2. Clinical Trials Fairness Act (S. / Adams & Mikulski): Codifies existing NIH/ADAMHA policies to require the inclusion of women and minorities in research study population. Clarifies that in approving grant application for funding, the composition of the study population should be considered when determining the scientific merit of a research proposal.

3. Breast Cancer Research: Authorizes an additional $25 million for the National Cancer Institute to conduct basic research aimed at finding a cure for breast cancer.

4. The Contraceptive and Infertility Research Centers Act of 1990 (S. 2215/ Harkin): Establishes three contraceptive research centers and two fertility research centers under the auspices of the National Institutes of Health. Creates a grant and

loan repayment program to attract top-notch scientists to work at the centers.

5. Sense of Congress Resolution Regarding Contraceptive and Infertility Research (S.Con.Res. 111/Harkin): Expresses the sense of Congress that birth control and fertility research and development be made national priorities. Establishes specific research goals for the next twenty years and calls for the reestablishment of the Ethics Advisory Board at DHHS.

6. Women and AIDS Research Initiative: Authorizes an additional $10 million for NIH and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) to conduct research on the transmission, development, treatment, and prevention of HIV infection in women. The legislation also creates a new program under the Community Based Clinical Research Initiative (P.L. 100-607) to expand clinical trials involving AIDs treatment for women.

7. Osteoporosis and Related Disorders Research (S. 2614/Grassley): To authorize an additional $36 million at the National Institute for Arthritis and Musculoskeletal and Skin Disease for research on osteoporosis, including the establishment of an Interagency Council, a Scientific Advisory Panel, three demonstration projects, and a National Information Clearinghouse and Resource Center.

TITLE II—SERVICES

1. Informed Consent for Breast Cancer Treatment: To mandate that states receiving funds under Medicaid or other federal health programs require physicians to inform breast cancer patients of alternative methods of treatment for breast cancer before such treatment is started.

2. Reimbursement for Certain Nurse Practitioners under Medicare and Medicaid: To provide direct reimbursement for nurse practitioners specializing in women's health under Medicare and Medicaid to improve access to prenatal care and preventive gynecological care.

3. Adolescent Pregnancy, Prevention, Care and Research Grants Act of 1989 (S. 120/Kennedy): Replace existing Adolescent Family Life Demonstration Projects with an ongoing full-service adolescent pregnancy prevention program—that stresses abstinence from sexual relations, and service program for pregnant and parenting adolescents. Services provided include prenatal and postpartum care, referral for education, employment, and vocational services, and adoption counseling services.

4. COBRA Displaced Family Amendments Act of 1990: Expands current health insurance continuation provisions under COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) to require employers to provide health insurance coverage for widowed, divorced, and legally separated spouses age 50 and above until they obtain coverage or become eligible for Medicare, and for their dependent children.

5. Federal Employee Family-Building Act: Requires carriers under the Federal Health Employees Benefits Plan that offer obstetrical benefits to also cover infertility treatment and medical expenses and counseling fees related to adoption.

TITLE III—PREVENTION

1. Medicaid Infant Mortality and Children's Health Amendments of 1990 (S. 2198/Bradley): Requires states to expand Medicaid coverage for all women and infants up to 185% of poverty, on a phased-in basis. Allow immediate or requires phased-in coverage of children up to 18 years of age up to 100% of poverty. Optional coverage of children through age 7 up to 185% of poverty and of home visitation.

2. Breast and Cervical Cancer Mortality Prevention Act of 1990 (S. 2283/Mikulski): Establishes a new $50 million of breast and cervical cancer. States would be required to target low-income women for mammograph and Pap smear services provided under the bill.)

3. Medicare Screeening Mammography Amendments of 1990 (S. 2033/Mikulski): Restores mammography reimbursement under Medicare on an annual basis for all Medicare-eligible women, and raises the cap to $60 for a screening mammogram. (Under the Catastrophic Health Act, mammography would have been reimbursed at $50.)

4. Coverage of Bone Mass Measurement under Medicare (S. 2619/Glenn). Authorizes reimbursement under Medicare for bone mass measurement technologies for purposes of detecting bone loss in certain high-risk individuals.

5. Women and AIDS Outreach and Prevention Act: Authorizes $10 million in FY 1991 for HIV prevention and education efforts in targeted family planning clinics and other public health programs that serve women in areas with high HIV infection rates. Funds would be used to improve outreach and increase access to preventive health services, including family planning, for high risk and HIV infected women and for additional referral and follow-up activities to reduce the spread of AIDS.

6. Infertility Prevention Demonstration Projects of 1990: Authorizes $10 million for 10 demonstration projects to reduce infertility through routine screening and treatment of the sexually transmitted disease chlamydia in family planning and other public health clinics that serve women. The bill also mandates data collection to better assess national incidence of chlamydia and public education and outreach efforts.

FACTSHEET ON THE WOMEN'S HEALTH EQUITY ACT OF 1990

Why a women's health package? Several compelling reasons prompted the Congressional Caucus for Women's Issues to create an omnibus package of legislation devoted specifically to the health care needs of women.

Consider the facts:

The death rate from breast cancer increased 24 pecent between 1979 and 1986.

Women are the fastest growing group of those infected with AIDS. Women now make up 11 of all reported AIDS cases.

The U.S. has a higher infant mortality rate than 21 other industrialized countries. This year, 40,000 babies will die before their first birthday.

Despite these and other startling facts, women's health issues—which are defined as diseases or conditions that are unique to women, are more prevalent or more serious in women, or for which specific risk factors or interventions differ for women—have received scant attention both in terms of funding and research. The National Institutes of Health (NIH), the nation's major source of funding for medical research conducted in the United States, spends only about 13 percent of its budget on women's health.

Today, many medical treatments currently used on women are based on studies conducted entirely on men. For example, although cardiovascular illness is the number one cause of death and disability in American women, women have consistently been excluded from major research studies in this area.

The Multiple Risk Factor Intervention Trials (Mr. F.I.T.) studies coronary heart disease risk factors in a study population of 15,000 men, and no women.

The Physician's Health Study looked at the use of aspirin as a preventive therapy for coronary disease in a study of 22,071 men, and no women.

Women's health issues have been ignored despite the fact that women are more likely to report symptoms of illness and to use health services than men. In fact, after age 14, women visit medical offices 25 percent more often than men, and are more likely to undergo surgery and to be hospitalized.

The Women's Health Equity Act of 1990 attempts to address the deficiencies in the treatment of women's health in three crucial areas: research, services, and prevention. Without research into the causes and cures of diseases affecting women, these diseases cannot be effectively treated. Likewise, knowledge about which treatments are most effective is of little use unless women have access to the full range of available health services. Finally, the best way to treat women's health problems is to prevent them from occurring, or to catch them in their earliest stages when they are most treatable.

TITLE I—RESEARCH

A. Equity in research

In 1985, the Public Health Service Task Force on Women's Health Issues released a report on the health status of American women. For the first time, both academics and government policymakers agreed that women were disadvantaged in terms of health care.

One of the principle recommendations made by the task force was that biomedical and behavioral research be expanded to assure emphasis on conditions and diseases unique to, or more prevalent in, women. The report specifically identified lack of data as an important factor in limiting our understanding of women's health care needs, and stated that "the need for data that are relevant to health and are sex- and age-specific by race and ethnicity is crucial."

In response to these concerns, the National Institute of Health (NIH) in 1987 issued a new policy to encourage the inclusion of women in clinical study populations. Under this policy, a grant applicant who intends to utilize males only is required to provide a clear rationale for excluding women from the study population.

In December 1989, Reps. Patricia Schroeder and Olympia Snowe, Co-Chairs of the Congressional Caucus for Women's Issues, and Rep. Henry Waxman, Chairman of the House Energy and Commerce Subcommittee on Health and the Environment, asked the General Accounting Office (GAO) to evaluate the extent to which the NIH policy had resulted in the inclusion of women in clinical study populations, as well as the extent to which research funded by NIH actually studies gender differences.

The results of the GAO study, released at a June 18, 1990, hearing before the Energy and Commerce Subcommittee on Health and the Environment, were disturbing. Although the NIH policy to encourage the inclusion of women was announced in 1986, guidelines to implement the policy were not published until July 1989. The policy was not used consistently in reviewing research applications until 1990.

In addition, NIH has no system in place to monitor the effectiveness of this policy; it could not provide GAO with information on the number of all-male studies that were funded in the past or are currently funded. To the extent that the NIH policy has been implemented, it has focused almost entirely on ending the exclusion of women from study populations, rather than studying whether diseases and treatments for those diseases affect women differently from men.

The GAO report also found that NIH directly undermines the goal of its policy by not considering the inclusion of women as a key factor in determining a research proposal's scientific merit. The Division of Research Grants, which reviews all incoming grant applications before assigning them to a peer review committee. directs reviews not to consider compliance with the policy until a decision has been made on scientific merit. According to the GAO, failure to consider study population as an issue of scientific merit downgrades its importance.

Finally, the NIH policy only applies to extramural research funded by NIH but conducted by outside organizations, but not to intramural research actually conducted by NIH.

Research into women's health has also been hampered by the lack of a gynecological or obstetrical research branch at NIH. In fact, only 3 obstetricians-gynecologists are currently on permanent staff at NIH into problems that might impact on women's health.

1. Women's Health Research Act (H.R. 5290, Rep. Olympia Snowe)

H.R. 5290 creates three new programs designed to ensure that women's health concerns are adequately addressed at the federal level. First, the legislation would establish an Office of Women's Health under the Assistant Secretary for Health at the Department of Health and Human Services (HHS). This office would initiate and coordinate health promotion activities within all divisions of HHS, including the Public Health Service, the Food and Drug Administration, the Health Resources and Services Administration (HRSA), and the Health Care Financing Administration (HCFA), for example.

The legislation would also establish a Center for Women's Health Research and Development under the Director of the National Institutes of Health. This center would serve as both overseer and coordinator of efforts to improve women's health research at NIH by identifying women's health research needs, supplementing existing funds for research on women's health and gender differences, coordinating research among the various Institutes of Health, and establishing data banks on women's health and gender differences. The research center would also be responsible for monitoring the inclusion of women in clinical study populations.

In its first year of operation, the center would also be charged with developing a plan for establishing an intramural program in obstetrics and gynecology. That program, which would initiate and conduct OB/GYN research, would be instituted in the second year after the legislation's enactment.

H.R. 5290 would authorize $20 million in fiscal year 1991 for the Center for Women's Health Research and Development, and $300,000 for the Office of Women's Health.

2. Clinical Trials Fairness Act (H.R 5345, Rep. Patricia Schroeder and Sens. Symms and Mikulski)

This legislation would codify NIH's policy regarding the inclusion of women and minorities in research, and extend that policy to the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), which has been in voluntary compliance with the policy since 1987.

H.R. 5345 would require the inclusion of women and minorities where feasible and appropriate, in all clinical trials—both intramural and extramural—funded by NIH and ADAMHA. exceptions would be permitted where inclusion of these groups would endanger their health or would be inappropriate to the purpose of the research.

The bill would also clarify that the composition of the study population should be considered an issue of scientific merit, and would require the Secretary of Health and Human Services to ensure the project is designed in a manner sufficient to allow for an analysis of gender differences.

Finally, the bill would establish a review committee to ensure compliance with this policy.

B. Breast cancer research

Today, breast cancer remains the most common form of cancer in women, and the second leading cause of cancer deaths among women.

In 1990, 150,000 American women will develop breast cancer and 44,000 women will die from the disease.

Currently, one in nine women born in the U.S. will develop breast cancer in her lifetime, up from only one in 20 in 1961. The death rate from breast cancer has also increased, up 24 percent from 1979 to 1986. Researchers presently have no explanation for these dramatic increases.

While breast cancer still predominantly strikes women over age 50, it is increasingly striking younger and younger women. Since 1974, the incidence of breast cancer in women under age 35 has steadily increased.

Although the number of deaths due to breast cancer grows each year, funding for basic research on the disease has been limited. Of the $77 million budgeted in fiscal year 1989 for breast cancer at the National Cancer Institute (NCI) of the National Institutes of Health, only $17 million was spent on basic research. Basic research focuses on the origins of the disease, and is a necessary step toward preventing the disease or finding a cure.

In addition, the total budget for NCI has increased by only $23 million in inflation-adjusted dollars during the last decade, the lowest percentage increase among all the Institutes of Health. Due to lack of funds, only 26 percent of the NCI breast cancer grant requests approved through the peer review process currently receive any money.

3. Breast Cancer Basic Research Act (H.R. 3251, Rep. Mary Rose Oakar)

H.R. 3251 would authorize an additional $25 million earmarked specifically for basic breast cancer research at NCI. These funds will enable NCI to follow up on promising leads about the causes of the disease; research that could eventually lead to a cure for breast cancer or enable women to avoid developing breast cancer.

C. Contraceptive and Infertility Research

American women today have fewer contraceptive options than European women. No truly new contraceptive method has been made available to Americans since 1960, the year the Food and Drug Administration approved marketing of the Pill.

Industry, which had been responsible for the research and development of most current contraceptives, has cut back on research because of the prohibitive time and cost associated with the approval of new drugs and because of the fear of litigation. Today, only one private pharmaceutical company based in the U.S. is still doing research related to contraceptive drugs and devices, compared to four in 1987 and 13 in 1970.

In addition, federal funding for contraceptive research and development has been minimal. The National Institutes of Health (NIH) allocated only $3 million for evaluating contraceptive safety and $8 million for applied research in contraceptive development in fiscal year 1989, an amount that has remained virtually unchanged since fiscal year 1983.

The lack of safe and effective contraceptive options is largely responsible for the 3 million unplanned pregnancies that occur each year. Half of these pregnancies end in abortion.

A recent study by the National Academy of Sciences found that the number of abortions could be significantly reduced by greater use of contraceptives.

While 3 million unplanned pregnancies occur each year to American women, many other Americans find themselves unable to conceive children. One in every six couples in the U.S. is infertile or fails to conceive within a year of deciding to have a child.

Each year, nearly one million couples seek medical advice or treatment for infertility. In the last 20 years, the number of infertility-related visits to doctors has nearly quadrupled.

4. Contraceptive and Infertility Research Centers Act (H.R. 4583, Reps. Patricia Schroeder and Olympia Snowe and S. 2215 Sen. Harkin)

H.R. 4583 would deal with the urgent need for contraceptive and infertility research by providing for the development and operation of three contraceptive and two fertility research centers. These centers would conduct clinical and other applied research, develop protocols for training physicians, scientists, nurses and other health professionals; and develop continuing education programs for such professionals. In addition, the bill creates a grant and loan repayment program to attract top-notch scientists to work at the centers.

The bill would provide $20 million in fiscal year 1991 and 1992, $12 million in FY 1993, $12.5 million in FY 1994, and $13 million in FY 1995. The additional money in the first two years is for start-up costs.

5. Sense of Congress Resolution on Contraceptive and Infertility Research (H. Con. Res. 309, Reps. Patricia Schroeder and Olympia Snowe and S. Con. Res. 111, Sen. Harkin)

H. Con. Res. 309 expresses the sense of Congress that contraception and fertility research, development, and education should be a national priority, and sets specific research goals for the next 20 years. The resolution also urges Congress to require the Secretary of Health and Human Services to reestablish the Ethics Advisory Board, which was terminated in 1980. NIH currently cannot conduct research on in vitro fertilization without the express approval of the Ethics Advisory Board.

D. Research on women and AIDS

Women constitute the fastest growing group of persons with AIDS. According to the Centers for Disease Control, 105,000 women may currently be infected with the HIV virus, with 30 percent likely to develop AIDS within the next 5 years.

Women constitute 11 percent of all reported AIDS cases.

AIDS cases reported for females in December 1989 indicate a 10.5 percent increase since December 1988. During the same time, AIDS cases reported for males indicate a 9.3 percent increase.

80 percent of all HIV-infected women are African American and Hispanic women.

A June 1990 study by the National Academy of Sciences found that among those applying for military service, women are infected with HIV at the same rate as men.

Recent data indicates that the rate of infection of women in communities hardest hit by AIDS is seriously undercounted, in part because low-income women often die before they are diagnosed with AIDS, or are diagnosed with AIDS-related diseases, such as pneumonia, but not with AIDS.

Much of the problem lies in the fact that virtually no research has been conducted on women and AIDS. What little research has been done has focused almost exclusively on women's role in transmitting the disease to others, particularly children, rather than on women as individuals at risk of contracting the disease.

In addition, almost no research has been done on the progression of the disease in women. Anecdotal evidence suggests that AIDS develops differently in women than in men, and that women with AIDS may be prone to different opportunistic infections, such as reproductive tract infections and cervical cancer, that are not present in men with AIDS. However, because no research has been done on AIDS symptomatology unique to women, the Centers for Disease Control's definition of AIDS currently reflects those symptoms that are known to appear predominantly in men.

6. Women and AIDS Research Initiative (H.R. . Rep. Constance Morella)

This legislation would expand the focus of current research to include research on women as persons at risk of AIDS. The bill would authorize a Women and AIDS research initiative within NIH and ADAMHA that would support both intramural and extramural research concerning HIV transmission, development, treatment and prevention in women. The bill authorizes $10 million in FY 91 and such sums as may be needed in FY 92-94.

The bill also authorizes $6 million to create a new program under the Communty Based Clinical Research Initiative (P.L. 100-607), which provides funds for the establishment of research organizations located in community settings to provide access to clinical research for populations at high risk HIV infection. Under the legislation, funds would be used to expand clinical trails involving AIDS treatment for women. The bill makes clear that money under this program could be used for support services, such as child care and transportation, to enable women to participate in clinical trials.

E. Osteoporosis research

Osteoporosis—a condition characterized by excessive loss of bone tissue—affects an estimated 24 million Americans and results annually in an estimated $10 billion in direct medical costs. The cost of this disease will only continue to escalate as the population ages and the incidence of osteoporosis increases. In fact, if current trends continue, the cost of osteoporosis could be as much as $62 billion by the year 2020. Yet, only about $20 million is currently allocated for research on this debilitating disease.

Half of all women over age 45 and 90 percent of all women over age 75 suffer from osteoporosis.

At least 1.3 million fractures in the U.S. each year are the result of osteoporosis; 70 percent of all bone fractures occurring in people over age 45 are the result of the disease.

80 percent of individuals affected by osteoporosis are women.

Osteoporosis often results in unnecessary death due to increased risk of hip fractures, especially among elderly women. Of those who survive a hip fracture, 20 percent need nursing home care for the rest of their lives and over one-fifth are unable to walk for at least a year. Many will never be able to walk again. Direct medical costs resulting from hip fractures alone are an astounding $7 billion annually.

Osteoporosis research is severly underfunded. NIH currently spends only about $20 million total for osteoporosis-related research, while the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the primary institute responsible for research on the disease, has one of the smallest budgets and lowest research award rates of any institute at NIH, receiving only two percent of the total NIH budget.

7. Osteoporosis and Related Disorders Research (H.R. 4864, Rep. Olympia Snowe and S. 2614 Sen. Grassley)

H.R. 4864 authorizes an additional $36 million for federal research on osteoporosis, including basic research into the causes of the disease as well as treatments to restore bone loss or prevent further bone loss.

The legislation would also provide for the establishment of an Interagency Council to promote and coordinate research and education and health promotion programs; an Advisory Panel to make recommendations about the disease; grants for three model education health promotion and disease prevention projects; and a Resource Center to compile and disseminate information about research results, services and materials to health professionals, patients, and the public.

TITLE II—SERVICES

A. Breast cancer treatment

Most women continue to be ill-informed about the treatment for breast cancer. Many women simply assume that discovery of breast cancer means that their entire breast must be removed—a procedure known as a mastectomy.

However, medical researchers now know that in many breast cancer cases, mastectomy is not necessary. In fact, a panel of experts convened by the National Institutes of Health in June 1990 confirmed that for early breast cancer, lumpectomy—in which only the affected area is removed, rather than the entire breast—followed by radiation, is preferable to mastectomy.

Unfortunately, despite these findings, the majority of women still undergo mastectomies for breast cancer. In the past, women who went in for simple biopsy to determine if cancer was present would often wake up to find that their breast had been removed. While such practices are no longer commonplace, even today only 15 states have laws ensuring that women have a role in deciding on their form of treatment. In the remaining states, no requirements exist that doctors inform patients that mastectomy is not the only treatment option.

1. Breast Cancer Informed Consent Act (H.R. 200, Rep. Mary Rose Oakar)

H.R. 200 would withhold federal Medicaid funds from states that do not enact laws requiring physicians and surgeons to inform breast cancer patients of alternative effective methods of treatment of breast cancer before treatment begins.

B. Nurse practitioners and prenatal care

Nurse practitioners are registered nurses who have advanced education and clinical training in a health care specialty area, including women's pediatric, and family health. Nurse practitioners provide primary care in a variety of community settings, and often serve as the regular health care provider for children and adults.

Recent studies indicate that between 75 and 80 percent of adult primary care services, and up to 90 percent of pediatric primary care services could be performed by nurse practitioners. Potential cost savings associated with the use of nurse practitioners have been estimated at between $500 million $1 billion, on 19 to 49 percent of primary care provider costs.

While the Omnibus Budget Reconciliation Act of 1989 (OBRA) mandated Medicaid coverage for the services of pediatric nurse practitioners and family nurse practitioners, reimbursement for women's health nurse practitioners—who provide prenatal care, contraceptive management, and cancer screening services, among other services—is not required by federal law.

In addition, while the 1989 OBRA for the first time provided for reimbursement of pap smears under Medicare, nurse practitioners currently cannot be reimbursed for performing this procedure.

2. Women's Health Care Coverage Expansion Act of 1990 (H.R. . Rep. Patricia Schroeder)

This legislation authorizes direct reimbursement for nurse practitioners specializing in women's health under the Medicare and Medicaid programs, in order to improve access to prenatal care and preventive gynecological care for low-income and older women.

C. Adolescent Pregnancy

Each year in the United States, more than a million teenagers—80 percent of whom are unmarried—become pregnant. Thirty thousand of these young women are under the age of 15 and, if present trends continue, researchers estimate that fully 40 percent of today's 14-year-old girls will be pregnant at least once before they reach 20.

The U.S. leads all Western countries in teenage pregnancy rates, teen abortions, and teen childbearing rates. American girls 15 and younger are five times more likely to give birth than in any other developed country. The U.S. is the only developed country where teenage pregnancy has been increasing in recent years.

Teen parents and their babies face multiple risks: higher infant death, higher incidence of low birthweight and seriously disabled babies, and more complications during pregnancy and childbirth. Teen parents are more likely to drop out of school, face a repeat pregnancy, be unemployed, and depend on welfare.

Adolescent childbearing is one of the leading causes of welfare dependency in the U.S. Teenage mothers comprise 61 percent of all women receiving Aid to Families with De-

pendent Children (AFDC). Of women under age 30 receiving AFDC, 71 percent had their first child as a teenager. It has been estimated that, overall, the U.S. spends $8.6 billion annually on income support for teenagers who are pregnant or have given birth.

While teenage pregnancy rates continue to rise, the federal commitment to preventing teen pregnancy has been minimal. Title XX of the Public Service Health Act—commonly referred to as the Adolescent Family Life Act (AFLA), the only federal program exclusively designed to deal with adolescent sexuality, pregnancy, and family issues—currently receives less than $10 million.

In addition to its limited funding, AFLA has also been criticized by some for requiring teenagers to have parental consent before receiving any services, and for prohibiting organizations that counsel or refer for abortions from receiving any funds.

3. The Mickey Leland Adolescent Pregnancy Prevention and Parenthood Act of 1990 (H.R. 5246, Rep. Nancy Johnson and S. 120, Sen. Kennedy)

Rather than simply funding demonstration projects for the prevention of teenage pregnancy, as under the current AFLA program, H.R. 5246 would revise AFLA to provide for comprehensive prenatal and postpartum care, well-baby and well-child care, family planning, and family life and parenting education. The new program would also provide for preventive education and screening for sexually transmitted diseases and referral for treatment. In addition, the program contains grants for research into the causes and consequences of teen pregnancy and childbearing.

The bill also includes outreach to teenage boys. Under H.R. 5246, both teen mothers and fathers would be eligible for counseling and referral services for employment, employment training, nutrition, substance abuse, and adoption services. Adolescents would also receive assistance in establishing eligibility for federal, state, and local health and social services.

Unlike the current program, H.R. 5246 would encourage parental and family involvement, but would not deny services to teenagers who choose not to consult their parents. In addition, pregnant teenagers would be informed of the availability of counseling for all legal options regarding pregnancy. However, no funds would be used for payment for the performance of an abortion.

The legislation authorizes $60 million for each of fiscal years 1991-1993.

D. Health Insurance coverage for displaced homemakers

In 1986, in response to increasing concern about the large number of Americans lacking health insurance, Congress enacted legislation designed to help individuals who had lost their health insurance as a result of a lay-off, or because of the death of or divorce from a covered worker.

Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), employers with more than 20 employees are required to provide employees and their families with the option of continued coverage under the group health insurance plan in the case of certain qualifying events. The law requires coverage to be continued for up to 18 months for terminated or reduced-hour employees, 29 months for employees with a disability at the time of termination, and three years for former and surviving spouses and their dependent children. The beneficiary of the continued coverage pays 102 percent of the premium in most cases.

While COBRA has been of significant assistance to workers and their families, the law does not resolve the problem of lack of health insurance after the period of coverage ends. Women who lose their health insurance as a result of the death of or divorce from a covered worker are a particularly vulnerable group.

An estimated 40 percent of displaced homemakers fall into poverty upon displacement.

Two-thirds of displaced homemakers are unemployed.

Women who become COBRA beneficiaries due to the death of their spouse or divorce are likely to be displaced homemakers unable to obtain insurance through an employer or who, as older women, have preexisting health conditions that prevent them from obtaining individual coverage until they are eligible for Medicare. However, regardless, of whether or not they have obtained alternate coverage, under the current law, displaced homemakers are simply dropped at the end of their three years of continued coverage.

There are no exact statistics on the number of displaced homemakers who are unable to obtain alternate coverage after the 3 years of COBRA coverage. However, over 27 percent of those without health insurance are between the ages of 50 to 64. In addition, 22 percent of insured women are covered under their spouse's plan, putting them at risk of losing their insurance in the event of their husband's death or divorce.

Five states have already passed legislation extending COBRA coverage for older displaced homemakers. For example, continued coverage is allowed indefinitely for surviving spouses age 50 or older under Louisiana law, for former and surviving spouses over age55 under Illinois law, and for divorced or separated spouses age 55 or older under New Hampshire law.

4. COBRA Displaced Family Amendments of 1990 (H.R. , Rep. Marcy Kaptur)

This bill expands current health insurance continuation provisions under COBRA to require employers to provide health insurance coverage for widowed, divorced and legally separated spouses age 50 and above until they obtain alternate coverage or become eligible for Medicare. The bill also requires continued coverage for their dependent children until they reach age 23.

E. Infertility treatment and adoption assistance

For many of the nearly five million infertile couples in the U.S., the costs of infertility treatment and adoption can be prohibitively high. The average fee for infertility care is between $2,500 and $3,000, while the cost of adoption can range up to $10,000, with the average non-profit agency fee in 1985 being $6,000.

Unfortunately, the high cost of infertility treatment and adoption often closes off these options for those couples most in need. While the risk of infertility is one and a half times greater for blacks than for whites and is more common among couples with less than a high school education, whites and those with higher incomes are more likely to pursue infertility treatment and adoption.

Although health insurance policies often cover pregnancy and childbirth as a matter of course, most insurance policies do not cover the costs of infertility treatment or adoption. Likewise, while the federal government has taken a high profile in urging its employees to adopt children and urging private companies to provide adoption benefits for their employees, it offers no such benefits to its own employees. The costs of infertility treatment and adoption are not covered by federal employee health insurance.

5. The Federal Employees Family Building Act of 1989 (H.R. 2860, Rep. Patricia Schroeder)

H.R. 2860 requires that all federal employee health insurance plans that provide obstetrical benefits also cover certain family building activities, including medical procedures necessary to overcome infertility and any necessary expenses related to the adoption of a child. Covered adoption expenses include agency and placement fees, counseling fees, medical costs, foster care charges, and travel costs. The legislation also allows federal employees to use sick leave for family building activities.

TITLE III—PREVENTION

A. Maternal and child health

Each year in the U.S., nearly 40,000 infants die before their first birthday. The U.S. has a higher infant mortality rate than 21 other industrialized nations.

In addition, 250,000 children born in the U.S. each year suffer from low birthweight. An infant's birthweight is the most critical factor in its ability to survive. While low birthweight babies account for only 7 percent of all live births, they account for nearly 60 percent of all infant deaths. In addition, low birthweight babies who do survive are twice as likely to suffer one or more handicaps, including mental retardation, deafness, blindness, autism, cerebral palsy, epilepsy, or chronic lung problems.

The best means of preventing infant mortality is to reduce the number of low birthweight babies. And the best way to reduce the incidence of low birthweight is to ensure that women receive adequate prenatal care.

Infants born to women who do not receive adequate prenatal care are almost twice as likely to be of low birthweight.

Prenatal care is also highly cost effective. Every dollar spent on prenatal care saves $3.38 in the costs of caring for low birthweight babies. Averting even one low birthweight birth can save $14,000-$30,000 in first-year hospital and long-term health care costs.

Unfortunately, many women, particularly low-income women, teenagers, and minority women, receive little or no prenatal care.

More than one-third of pregnant women—1.3 million a year—receive insufficient prenatal care. Nearly 25 percent of pregnant women fail to begin prenatal care in the critical first trimester of pregnancy.

One-fourth of women in their childbearing years—15 million women—lack insurance covering maternity care. Two-thirds of this group—10 million women—are without any form of health insurance.

1. Medicaid Infant Mortality Amendments of 1990 (H.R. 3931, Rep. Cardiss Collins and S. 2198, Sen. Bradley)

H.R. 3931 requires states to provide Medicaid coverage for all pregnant women and children under age six with incomes up to 185 percent of poverty. The House of Representatives had passed similar legislation in 1989 as part of budget reconciliation; however, Congress eventually reduced coverage to pregnant women and young children with incomes up to 133 percent of poverty.

B. Breast and cervical cancer prevention

According to health professionals, the most effective means of preventing deaths from breast and cervical cancer is through early detection using mammography and pap smear screening.

Mammograms—low dose breast X-rays—can detect tumors two to three years before a physician is able to discover them through a manual exam. According to medical experts, 30 percent of cancer deaths could be averted if women received regular mammography screening. Likewise, regular pap smear tests can diagnose cervical cancer in its early stages, when it is virtually 100 percent curable. Unfortunately, many women fail to receive regular mammography and pap smear screening.

Twenty-seven percent of women in the U.S. have not had a pap smear test in the past three years. As a result, 6,000 to 7,000 women die each year from cervical cancer.

Less than one-third of women over the age of 40 have ever had a mammography. The proportion of women receiving regular mammography screening is even lower. The National Cancer Institute recommends that all women over age 50 receive an annual mammogram.

One of the most frequently cited reasons for women's failure to receive breast and cervical cancer screening is lack of money to pay for cancer screening services. The effect of this barrier is clearly seen among low-income minority women. Despite the fact that white women are more likely to develop breast cancer, the death rate from the disease is higher for black women. In fact, breast cancer is the leading cause of cancer death among black women in the United States.

2. Breast and Cervical Cancer Mortality Prevention Act of 1990 (S. 2283. Sen. Barbara Mikulski; H.R. 4790. Rep. Henry Waxman)

S. 2283 would create a new, $50 million public health service program to screen women for breast and cervical cancer, provide referrals for appropriate treatment, develop public information and education programs, and improve the education and training of health professionals. Sixty percent of funds would be required to be used for actual screening and referral services, with priority given to low-income women. States receiving funds would be required to have in place standards to assure the quality of mammography and pap smear services.

H.R. 4790 was approved by the House of Representatives on June 19, 1990.

3. Mammography Reimbursement under Medicare

In 1988, Congress approved, as part of the Medicare Catastrophic Coverage Act, Medicare coverage for a screening mammogram every two years for women over age 50, and every year for women aged 50-64 who were determined to be a high risk of developing breast cancer. However, in 1989, Congress repealed the entire catastrophic coverage law, including its coverage of mammography screening.

(a) (H.R. 3701, Rep. Cardiss Collins) This legislation would restore mammography reimbursement under Medicare, but would provide screening on an annual basis for women over age 49 and for high-risk women age 39-49. Reimbursement for screening services would be capped at $50, the same as under the original law.

(b) (H.R. 3864, Rep. Mary Rose Oakar) H.R. 3864 restores mammography reimbursement under Medicare as above, with a $60 cap for a screening mammogram and S. 2033, Sen. Mikulski.

(c) (H.R. 5054, Rep. Barbara Kennelly) H.R. 5054 restores mammography reimbursement under Medicare on an annual basis and removes the cap for screening mammograms, instead subjecting reimbursement to a fee schedule under Medicare, as is the case for diagnostic mammograms.

C. Osteoporosis prevention

For individuals at risk of developing osteoporosis, or already suffering from osteoporosis, bone mass measurement is the only accurate way to detect and diagnose low bone mass for the purpose of determining the risk of bone fractures and selection therapies to prevent further loss of bone mass.

While a number of sophisticated technologies exist for measuring bone mass, Medicare currently only provides reimbursement for one outdate technology that has been surpassed for years by other more accurate, cost-effective technologies.

Medical coverage of more effective bone measurement procedures would increase the use of appropriate treatment and prevent a significant number of bone fractures. In turn, the lower incidence of fractures due to osteoporosis would lessen the need for medical, hospital and nursing home care.

4. The Medicare Bone Mass Measurement Coverage Act of 1990 (H.R. 4865. Rep. Olympia Snowe and S. 2619, Sen. Glenn)

H.R. 4865 would expand Medicare reimbursement for updated technologies for diagnostic testing for osteoporosis. Only individuals at high risk of developing osteoporosis, including women with an estrogen deficiency and individuals with vertebral abnormalities, would be covered under the legislation.

D. Aids prevention

Experts agree that the risk of HIV infection among women of reproductive age is increasing. Eighty percent of women with HIV infection are reproductive age and, in New York City, AIDS has become the leading cause of death for women aged 20 to 40 years.

The increased risk of AIDS among women has also increased the risks of AIDS in children. In the next few years, AIDS can be expected to become one of the five leading causes of death among children and young people. A recent study by the National Institute of Child Health and Human Development estimated that by 1991 there will be 10,000 to 20,000 infants born with HIV infection in the United States.

Traditional AIDS service providers do not adequately address the needs of women at risk of or infected with HIV. These providers often are located in areas inaccessible to women, or are not set up to deal with the unique needs of women. For these and other reasons, most women do not use these providers. Instead, 50 to 90 percent of women choose to be tested for HIV infection at primary care clinics offering prenatal care and reproductive health services.

Family planning clinics and community health centers, which are major providers of prenatal and reproductive health services to low income women, are well placed to provide services to prevent the spread of AIDS. Over 5 million women annually use family planning clinics while nearly 3 million use community health centers. These women tend to be under age 25; many are unmarried or have multiple sexual relationships, and a large proportion are low-income women and minority women. These characteristics closely resemble those of women currently diagnosed with AIDS.

Many of these clinics are already performing activities designed to help precent the spread of AIDS, including providing educational programs on sexuality, counseling women on contraception/prevention strategies, and providing education and counseling on HIV and AIDS. They also provide HIV testing directly or refer clients to test sites. However, in the case of family planning clinics, funding has cut dramatically over the past decade, leaving them without adequate funds to provide the necessary outreach and follow-up services to women at high risk for AIDS. In addition, there is currently no targeted federal effort to involve these primary care providers in providing outreach or services to women in high risk areas.

5. Women and AIDS Outreach and Prevention Act of 1990 (H.R. , Rep. Constance Morella)

This legislation would authorize $10 million in fiscal year 1991 under the AIDS prevention program for select family planning clinics and other public health clinics that provide preventive health services for women in high risk areas to design and carry out innovative programs of outreach, referral, services, and training.

Under the legislation, funds would be available for family planning clinics and community health centers to provide preventive health services, including family planning, screening, and treatment for sexually-transmitted diseases, and counseling and testing for the HIV virus; as well as to provide outreach to inform women and their partners of the availability of these services. Clinics would also develop improved referral arrangements with agencies that serve women and their partners, including drug abuse clinics, STD clinics, and homeless shelters, and would provide appropriate follow-up services. In addition, funds would be available to train clinic personnel in dealing with persons at high risk of AIDS, sexually-transmitted diseases, and unintended pregnancy.

E. Infertility prevention

The leading preventable cause of infertility in women is pelvic inflammatory disease caused by sexually-transmitted diseases (STD's). Approximately 125,000 women become infertile each year from STD-related pelvic inflammatory disease.

Unfortunately, the number of women contracting STD's is on the rise. An estimated four million new cases of chlamydia—now thought to be the most common STD in the U.S.—are contracted each year; 2.6 million of these cases occur in women.

The infertility rate of 20-29 year old women nearly tripled between 1965 and 1982, in part due to the rise in STD's. Many new cases of infertility could be prevented if more women were screened for STD's, especially chlamydia, as part of their routine gynecological exams.

Women who have been infected with chlamydia are twice as likely to experience an ectopic pregnancy; chlamydia may be responsible for as many as 20,000 ectopic pregnancies each year.

The most common cause of eye infections and certain lung diseases in newborns is chlamydia; the disease has also been associated with low birthweight, premature birth, and stillbirth.

While chlamydia is both treatable and preventable, few women with chlamydia experience any symptoms. Because of this,

women rarely seek routine screening and treatment for the disease, which cannot be detected by a regular pap smear test and often cannot be diagnosed through a regular gynecological exam. The only accurate way to detect chlamydia is through a specific—though inexpensive—test.

Chlamydia cost U.S. taxpayers $1.4 billion in direct and indirect costs in 1987; three-quarters of the total cost was due to treatable, uncomplicated infections. These costs could be dramatically lowered if women were routinely screened for chlamydia as part of their normal gynecological care.

6. Infertility Prevention Demonstration Projects of 1990 (H.R. , Rep. Patricia Schroeder)

This legislation authorizes $10 million for 10 demonstration projects to provide screening for, prevention and treatment of chlamydia as part of routine gynecological care, as well as to collect data on the prevalence of chlamydia and develop programs and materials to educate the public about detection, prevention and early treatment of chlamydia.

Mr. KOHL. Mr. President, I am proud to join my distinguished colleague from Maryland as an original cosponsor of the Women's Health Equity Act of 1990. I commend her for her deep commitment to and obvious leadership in improving access to critical health care services for women and children of this Nation.

They are, by and large, underserved and underrepresented in research, prevention, and treatment. So many of the difficult issues facing us on the social policy front can be traced back to our failure to invest in prevention. There is no question in my mind that that is the case with things like prenatal care, routine health screening, sexually transmitted diseases, and teenage pregnancy.

I hope that this comprehensive approach will help to draw attention to the health care needs of women. In years gone by, in the so-called traditional family, there was some expectation and sterotype that women sacrificed their own needs for those of their family, for their children. Ironically, Mr. President, that seems to have been the case in public, as well as private policy. Today, we find ourselves spending billions of dollars on research, with few of those dollars going specifically toward the health needs of women. We are spending billions of dollars on health care and yet women are not getting access to preventive services. And tragically, Mr. President, we are spending billions on health care and the children are not even getting immunized, they're not getting preventive care—particularly if they come from low-income families.

This bill is a major step toward restoring equity in the health care marketplace. It is an investment, that if made, will yield high profit margins both in the sense of Federal dollars and quality of life. While I would not perhaps endorse every single component of all of these initiatives, the vast majority are not only worthy of support but should be enacted and funded immediately.

I look forward to working with my colleagues to make that happen.

Mr. HARKIN. Mr. President, I am most pleased to join my colleagues, especially Senator MIKULSKI, in the introduction of the Women's Health Equity Act of 1990. BARBARA MIKULSKI is the Senate's most distinguished advocate for better health care for women. This bill reflects her great knowledge and leadership. I also want to commend Senators KENNEDY, ADAMS, and SIMON for their excellent work in this area. We are all colleagues on the Labor Committee and many of us are on the Appropriations Committee. So you can bet we're going to use those positions to get the job done on this bill.

Mr. President, the Women's Health Equity Act is landmark legislation. It demands for the women of Iowa and of all America not special treatment, but fairness, plain and simple fairness. They are not getting it now. A recent study showed that only 13.5 percent of NIH's budget was spent on women's health research. This, when we know that the death toll from breast cancer alone each year—40,000—is nearly as high as that suffered by the fighting men and women during the Vietnam war—58,000. In Iowa this year, nearly a thousand women will die from lung, breast, and cervical cancer alone.

In addition, the GAO recently found that NIH has not assured that women are included in research studies of diseases that affect them. The most glaring example is the recent study which concluded that taking an aspirin a day reduced the risk of heart attack. That study was conducted only on men. So now more than half of all Iowans and half of all Americans do not know whether this prevention technique would help them, harm them, or have no impact. We have to correct this and we will.

I am also pleased, Mr. President, that two bills that I have authored are in this important package, especially the Contraceptive and Infertility Research Centers Act. This bill would establish five research centers to study the issues of contraception and infertility. Even if we do not all share the same beliefs when it comes to a woman's right to choose, we all agree that it is important to reduce the number of abortions. Enhanced research is desperately needed to bring down the rate of unintended pregnancy. And, with 2.4 million couples who want to have children but are suffering from infertility, it is important that we find better ways to diagnose and treat infertility.

As chairman of the subcommittee which funds health care programs, I am committed to working to fund these important initiatives. You can bet when NIH officials come before my subcommittee next, they are going to have to answer some tough questions. We want results.

I urge my colleagues to join us in support of this important and timely legislation.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2962. A bill to amend title 1 of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to authorize the Clerk of the House of Representatives and of the Senate to receive bills returned by the President at any time their respective Houses are not in session; to the Committee on Governmental Affairs.

POCKET VETO LEGISLATION

● Mr. KOHL. Mr. President, Senator KENNEDY and I are today introducing a bill that has significant consequences for this body and the Congress as a whole. Our bill would clarify that the President may pocket veto legislation only at the end of a Congress—not during intra- or inter-session recesses. It would codify the leading judicial interpretation of the President's pocket-veto authority. In so doing, it would ensure that Congress does not lose its constitutional authority to check and balance the executive branch.

The immediate impetus for this legislation was the President's handling of the Chinese students bill during the intersession adjournment last November. As my colleagues will recall, President Bush threatened to pocket veto the measure. But a pocket veto would have been unconstitutional under such circumstances, because both the House and Senate had made arrangements to receive any veto message during the adjournment.

Ultimately, however, the President chose a more diplomatic course. While asserting that he had pocket-vetoed the bill, he actually returned the measure to Congress, as the Constitution requires.

Congress properly treated the President's veto of the Chinese students bill as a normal return veto. That is, we exercised our constitutional prerogative, and attempted to override the veto. But while this particular dispute ended without a constitutional confrontation, the President's statements demonstrated the need to clarify the pocket veto power statutorily.

Indeed, this was not the first instance in which President Bush attempted to deny Congress its rightful opportunity to override a veto. In August 1989, while Congress was out for its summer recess, the President placed House Joint Resolution 390 in his pocket. This was a minor piece of legislation, which would have allowed the President to sign the S&L bailout without waiting for the bill to be

printed on parchment. Minor though it was, however, the President's handling of the measure was significant—he asserted the power to exercise an intrasession pocket veto. In response, the Democratic and Republican House leadership protested, calling his position extremely troublesome.

My point is not to criticize the present occupant of the White House. My purpose is merely to illustrate why we need the legislation being proposed today. We need it because Congress must protect its constitutional role in governing.

Under article I, section 7 of the Constitution, the President has 10 days to consider bills presented to him by Congress. If 10 days pass and the President doesn't sign the bill, it becomes law "unless"—in the words of our guiding document—"the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law." When adjournment keeps the President from returning the bill with his objections, he can fail to sign it—pocket it—and it dies.

The question, then, is what kind of adjournment prevents the President from sending a bill back to Congress? Two Supreme Court cases provide only minimal guidance. In 1929, the Court held that an intersession break of 5 months allowed for a pocket veto. In 1938, the Court said that an intrasession recess of 3 days did not permit such action.

In 1974, in litigation brought and personally argued by Senator KENNEDY, the D.C. Circuit ruled that intrasession adjournments do not prevent the President from returning a bill to Congress. And in 1984, the D.C. Circuit expanded that holding to adjournments occurring between sessions, though the Supreme Court later dimissed this decision on procedural grounds.

The appeals court identified several reasons for reaching its conclusion—ones that apply equally to this legislation. First, the framers of the Constitution rejected the idea of giving the President an absolute veto—which is what a pocket veto amounts to. Second, modern congressional adjournments are much shorter than the one at issue in the 1929 case. Third, modern communications technology enables the President to notify the American people that he has returned a bill to Congress even while it is in recess. Finally, we now arrange for House and Senate clerks to receive veto messages, even when Congress is not in session. Consequently, there is no longer the danger of delay or public uncertainty about the status of legislation.

At bottom, the pocket veto clause was meant as a defensive mechanism: The Congress cannot deprive the President of his veto power by adjourning without providing for receipt of a return veto. Just as clearly, however, none of the farmers favored the offensive use of a pocket veto to deny Congress its own authority to consider veto overrides.

The Carter and Ford administrations recognized the validity of these propositions, and both agreed not to use pocket vetoes between or during sessions. The Reagan administration chose to fight, and now the Bush administration seems to be taking a confrontational stance as well.

Ideally, of course, a lasting agreement between the executive and legislative branches would be the best solution. But in the absence of such an accommodation, legislation is necessary. And our proposal is quite simple: In 26 words, it states that no adjournment—other than one to end a Congress—prevents the return of a bill by the President. In addition, the bill codifies the present practice of authorizing the House and Senate clerks to receive bills when we are not in session.

Mr. President, identical legislation is advancing in the House under the guidance of Representative BUTLER DERRICK, chairman of the Rules Subcommittee on the Legislative Process. I commend him for his excellent work on this issue. I also salute Senator KENNEDY for his longstanding commitment to protecting congressional prerogatives against improper encroachments by the executive banch.

Thank you. I ask unanimous consent that the full text of the bill be reprinted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 1, UNITED STATES CODE.

Chapter 2 of title 1 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 115. Adjournment preventing return of bill; Clerk of the House of Representatives and Secretary of the Senate authorized to receive bills returned when their respective Houses are not in session

"(a) No adjournment of either House of Congress, other than an adjournment sine die to end a Congress, prevents the return of a bill by the President.

"(b) The Clerk of the House of Representatives and the Secretary of the Senate are authorized to receive bills returned by the President at any time their respective Houses are not in session.".

SEC. 2. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 2 of title 1 of the United States Code is amended by inserting at the end thereof the following new item:

"115. Adjournment preventing return of bill; Clerk of the House of Representatives and Secretary of the Senate authorized to receive bills returned when their respective Houses are not in session.".●

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2963. A bill to authorize the Secretary of the Interior to conduct an advanced water treatment research and demonstration project near Salton Sea, CA; to the Committee on Energy and Natural Resources.

SALTON SEA WATER RESEARCH PROJECT

● Mr. WILSON. Mr. President, today I am introducing legislation to conduct an advanced water treatment research and demonstration project near Salton Sea, CA.

The Salton Sea is a saltwater lake located in the Imperial and Coachella Valleys about 100 miles east of San Diego. The Sea, noted for its rich wildlife and fishery values, was artificially created in 1905 when a temporary diversion of the Colorado River failed. This caused the entire discharge of the river to flow into the valleys and form the Sea.

Approximately 35 years ago the California Department of Fish and Game stocked the Salton Sea with several species of fish, three of which survive today. These fish have created a major, self-sustaining sport fishery.

Mr. President, agriculture is the major economic base in the Imperial and Coachella Valleys. Colorado River water, the primary source of crop irrigation, is high in dissolved salts. To leach the salt from the soil and prevent salt buildup, each farmer must apply to his fields more water than is necessary for his crops. As a consequence, approximately 98 percent of the 1.5 million acre-feet of water that enters the Sea each year is agricultural runoff and canal seepage. This drain water carries with it more than 4 million tons of salt annually.

The problem is that there is no natural means of salt removal from the Sea. As the Sea's water evaporates, salinity levels continue to increase each year by about 100 parts per million [ppm]. The Sea currently is at about 43,000 ppm. For a comparison to demonstrate the severity of the salinity problem, ocean water contains about 35,000 ppm.

While Salton Sea fish have been able to adapt to these conditions, it is predicted that further escalation of the salinity problem soon will obstruct fishery reproduction and prevent the Sea from sustaining fish life.

This will diminish the productivity of the ecosystem and create a negative impact upon the environmental and economic opportunities of the two valleys.

For instance, recreational opportunities attract roughly 2.5 million visitors each year to the Sea. This generates annual business revenue of about $300 million and supports thousands of jobs in the region.

Fishing accounts for approximately two-thirds of the recreational use. In addition, high value retirement and recreation communities have spread eastward from Palm Springs into the Salton Sea area. This growth is expected to continue and will certainly add a new element to the Sea's future.

Furthermore, the sport fish, as well as other non-game fish and aquatic organisms provide food for the over 100 species of waterfowl that inhabit the Sea each year. It is a major wintering site for migratory birds, with frequent use by several State and federally listed endangered birds. State and Federal wildlife refuges have been established to protect these waterfowl populations.

Representatives MCCANDLESS and HUNTER introduced H.R. 3309 last September to provide for a research project that would serve as the basis for developing an enhanced evaporation system for saline water from the Salton Sea. The legislation was incorporated into H.R. 2567, the Reclamation Projects Authorization and Adjustment Act. This legislation passed the House and is now pending before the Senate Energy Committee. However, there are several controversial water issues which could inevitably stall this legislation and prevent its passage this year.

For this reason, I have introduced separate legislation that will not only address processes and technologies for the treatment of saline levels at the Sea, but also other water-related impairments in the Sea's basin. This would include contaminants from irrigation drainage, such as selenium, boron, and mercury, all of which pose substantial risks to human health, fish, and wildlife.

In addition, my legislation sets up a process to address the problem of raw sewage and chemicals polluting the Sea via the New River.

My bill calls for the non-Federal entities associated with this project to contribute 25 percent of the total costs, which will include in-kind services, necessary to address water quality issues in the Salton Sea area. The results of the project would be required within 5 years of enactment.

We must begin immediately to address the problems that threaten the Salton Sea. Its outstanding recreational, economic, and environmental features are an important part of California. I invite my colleagues to support this legislation and encourage immediate attention at the committee level on this very serious issue.●

By Mr. ROTH:

S. 2964. A bill to provide television broadcast time without charge to candidates for Federal elective office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

BROADCAST TIME FOR CANDIDATES FOR FEDERAL ELECTIVE OFFICE

Mr. ROTH. Mr. President, yesterday when we were considering S. 137, the campaign financing reform legislation, it had been my intention to offer as an amendment my proposal to offer candidates for Federal office free television broadcast time during the 45-day period preceding the general election. Unfortunately, events overtook that intention and the opportunity to offer the amendment never materialized. While I did not envision such an amendment being adopted by this body yesterday, today I am introducing my proposal because I do believe that it provides the key to the solution to this most complex problem of campaign financing reform.

Mr. President, the underlying reason why we undertook the legislative effort to achieve campaign finance reform is that the costs of campaigning are too high. High costs have driven all of us in varying ways to seek contributions in amounts sufficient to finance high-cost campaigns. And there is one cost above all others that have caused the demand for campaign funds. That is the cost of television broadcast time.

My proposal would require television broadcast stations to make available, without charge, an amount of television time sufficient to allow incumbents and challengers seeking Federal office to make their case to the electorate in the 45-day period preceding the general election. Free television time would be made available on two conditions: first, that the candidate forgo the purchase and acceptance of additional time during this 45-day period; and second, that the candidate agree to limit the use of the free television time to the personal presentation of his or her views in speeches, interviews, debates, or similar formats.

We are all impacted by the spiraling costs of television time. Eliminating the cost eliminates our dependence on contributions necessary to pay the cost. Without television costs I doubt we would have a campaign finance problem to remedy.

By cutting the largest cost of a campaign for a candidate in return for a commitment not to purchase or accept additional television time, my proposal includes within it a limit on spending regarding the single most significant budget item in any campaign. I believe that my proposal might serve as a possible compromise between the parties, should they so desire. It would cut campaign budgets by more than half, which should appeal to everyone, regardless of party affiliation. It would limit spending on television broadcast time during the general election campaign, which should appeal to Democrats, who have proposed spending limits.

Moreover, my proposal would allow us to accomplish some reforms on a voluntary basis that otherwise, if made mandatory, could be achieved only through a constitutional amendment. It would allow us, in effect, to shorten campaigns by focusing television advertising within the 45-day period before the general election. For those who yearn for a shorter European-style campaign, this proposal presents a unique opportunity. Some might suggest that my proposal needs further refinement in order to achieve that focus because they would prefer a longer forbearance in purchasing or accepting television time than 45 days before the general election. However, I chose 45 days as the appropriate period lest a longer period preclude television appearances before the primary election.

The second accomplishment of my proposal would be the elimination of negative advertising, which so many find offensive. This result would be achieved as a practical matter by limiting candidates to personal appearance formats such as speeches, interviews, and debates. I do not have to extend this discussion with examples of the offending advertisements that we have experienced. Not only would it benefit the electorate to see and hear candidates speak to the issues, but it would also benefit candidates to reduce their payments to Madison Avenue for the preparation of television ads. So there is a double cost reduction in my proposal.

The proposal would apply only to the general election, but the FCC is directed to report back to Congress its recommendations on possibly extending the concept to primary and other elections.

Let me now address certain questions that my colleagues may have. How much time would the proposal provide? No fixed amount is set forth in the legislation. Rather the FCC, the agency with jurisdiction over the airwaves, is directed to determine how much time would be allocated for each race taking into account the amount of television broadcast time that would be needed for an incumbent and a challenger to make a complete presentation of their views to the electorate and taking into account the size of the audience, the voting age population in the jurisdiction to be represented. It is my intention that the amount of time be substantial, the equivalent of the current use of television broadcast time. It should be so ample as to induce each and every candidate to accept the offer and its terms.

What kind of time will it be? Basically prime time. The FCC is directed to ensure that the television time provided be at hours of the day that people are watching. A television broadcast station could not fulfill the mandate by providing time after midnight or on Saturday mornings during cartoons.

Won't some stations bear a disproportionate share of the burden? In case that should happen, as it might, the FCC is authorized to direct television broadcasters to pool resources so as to ameliorate any disparate impact on a particular broadcaster.

How are third parties treated under the proposal? Candidates who are not nominees of the major parties are entitled to proportionately less time, as measured by the level of their small contributions compared to the corresponding levels for the major party candidates. There have been occasions when third party candidates for the Senate have, in fact, won. So third parties must be accommodated for both practical and constitutional reasons. My proposal would allow the FCC to use their level of small contributions as a measure of their entitlement to television broadcast time.

Mr. President, while circulating my proposal as a possible amendment to the campaign finance legislation, S 137, I encountered three different concerns. The first is that the broadcasters will get very angry with those who support this proposal. But if you reflect on the fear inherent in that thought, it simply underscores how important television broadcast time is to the future of American politics. The second concern about my proposal is that it basically solves the problem so well that other solutions that have been advocated; namely, public financing and spending limits—become virtually unnecessary. This is a very sad reason to oppose my proposal. It shows me what sorry state the compaign finance reform legislation is in.

The third concern is that it may be unconstitutional. On Monday night I discussed this point in some detail. I strongly disagree with this contention.

We have historically conditioned the holding of a broadcast license on serving the "public interest." To me there is little that can surpass either: First, the public interest in reducing campaign costs; or second, the public interest in providing the opportunity for candidates to present their views so that elections might hinge on the merits rather than on television advertising advantages.

No one would suggest that if a TV station decided on its own to adopt the policy of this legislation—a limited amount of free TV time and no more, there would be a constitutional problem. The station would only be operating in the public interest. The legislation merely gives definition to that term.

The broadcast media have been compelled to grant access to their channels of communication against their will before. The fairness doctrine and the equal opportunity doctrine are prime examples. They were challenged as unconstitutional in the landmark case of *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969). The Supreme Court held such compulsory access to be valid, saying that the first amendment as applied to the broadcast media required a balancing of interests with those of the audience paramount. Compelling all sides of an issue to be heard furthers rather than thwarts the ends of the first amendment. Such regulation, the Court said, is permitted under the first amendment because of the scarcity of broadcast frequencies, the use of which is licensed.

Therefore, in my opinion, the proposal is constitutional. While TV stations are sure to complain, it is an opportunity for them to demonstrate their claim that they serve the public interest.

Mr. President, it is time to recapture the airwaves to allow them to be put to public use. I can think of no better way to serve the American public than for television broadcast stations to serve as a public forum for electoral discourse.

Mr. President, I ask unanimous consent that the legislation I am introducing at this time be placed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

Section 315(a) of the Communications Act of 1934 is amended to read as follows:

(a) ALLOWANCE OF TELEVISION BROADCAST TIME FOR CERTAIN CANDIDATES; CENSORSHIP PROHIBITION.—Each licensee operating a television broadcasting station shall make available without charge to any legally qualified candidate in the general election for the office of President, Vice President, Senator or Representative an amount of broadcast time, determined by the Commission under subsection (d), for use in his or her campaign for election, subject to the conditions and limitations of subsection (e). with respect to the Office of President and Vice President, each such licensee affiliated with a national broadcasting network, shall coordinate with such network in making broadcast time available to candidates for such offices, as determined by the Commission under subsection (d). No licensee shall have power of censorship over the material broadcast under the provisions of this section.

(b) EQUAL OPPORTUNITIES REQUIREMENT; CENSORSHIP PROHIBITION; ALLOWANCE OF STATION USE.—Except in those circumstances to which subsection (a) applies, if any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he or she shall afford equal opportunites to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate.

(c) NEWS APPEARANCES EXCEPTION; PUBLIC INTEREST; PUBLIC ISSUES DISCUSSION OPPORTUNITIES.—Appearance by a legally qualified candidate on any—

(1) bona fide newscast;

(2) bona fide news interview;

(3) bona fide new documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) on-the-spot coverage of bona fide events (including but not limited to political conventions and activities incidental thereto);

shall not be deemed to be use of a broadcasting station within the meaning of subsections (a) or (b). Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, new documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the pulbic interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(d) RULES AND REGULATIONS REGARDING ALLOWANCE OF TELEVISION BROADCAST TIME FOR CERTAIN CANDIDATES.—The Commission shall determine the amount of television broadcast time that a legally qualified candidate may receive under subsection (a) on the basis of both the voting age population residing in the jurisdication represented by the office that is the object of the candidacy and the amount of television broadcast time that an incumbent or a challenger may need to make a complete presentation of views to the electorate. The broacast time made available under subsection (a) shall be made available during the 45-day period preceding the general election for such office. The Commission shall ensure that the television broadcast time made available under subsection (a) shall be made available fairly equitably, and at hours of the day which reflect television viewing habits and current campaign practices. A legally qualified candidate of a party other than a party which obtained 5% or more of the popular vote in the last presidential election may, by regulation of the Commission, be granted such lesser allocation of broadcast time in proportion to the amount of contributions under $250 such a candidate has received when compared to such contributions received by candidates of the major parties. The Commission shall require licensees operating television broadcasting stations to enter into a pooling agreement to ameliorate any disparate impact on particular licensees.

(e) CONDITIONS AND LIMITATIONS.—The entitlement of any legally qualified candidate to television broadcast time under subsection (a) is conditional upon (1) foregoing the purchase or acceptance of any additional amount of television broadcast time during the period that such time is made available with respect to such candidacy pursuant to subsection (a) and (2) agreeing to limit the use of the television broadcast time provided to the personal presentation of his or her views in speeches, interviews, debates or similar formats.

SEC. 2. Section 315 of the Communications Act of 1934 is further amended as follows: (1) in subsection (b) by striking the phrase "The charges" and inserting in lieu thereof "Except to the extent that the provisions of subsection (a) apply, the charges"; (2) by redesignating subsections (b), (c), and (d) as (f), (g), and (h) respectively; and (3) by adding "generally" after "Rules and regulations" in redesignated subsection (h).

SEC. 3. Subsection (a)(7) of section 312 of the Communications Act of 1934, as amended, is amended to read as follows: "(7) for willful or repeated failure to comply with the provisions of section 315 of this title."

SEC. 4. Subsection (8) of section 301 of the Federal Election Campaign Act of 1971, as amended, relating to exclusions from the definition of contributions, is amended as follows: (1) at the end of paragraph (B)(xiii) by striking the semicolon; (2) at the end of paragraph (B)(xiv) by striking the period and inserting "; and" in lieu thereof; and (3) at the end of paragraph (B) by adding the following: "(xv) the value of any television broadcast time provided without charge by a licensee pursuant to section 315(a) of the Communications Act of 1934, as amended."

SEC. 5. Subsection (9) of section 301 of the Federal Election Campaign Act of 1971, as amended, relating to exclusions from the definition of expenditures, is amended as follows: (1) by inserting after paragraph (B)(i) the following: "(ii) the provision without charge of any television broadcast time by a licensee pursuant to section 315(a) of the Communications Act of 1934, as amended; "and (2) by redesignating subsequent subparagraphs accordingly.

SEC. 6. The Federal Communications Commission shall study the application of section 315(a) of the Communications Act of 1934, as amended by this Act, to the first general election campaign conducted under the provisions of that section and shall report the results of that study, together with recommendations, including recommendations for legislation, not later than the first day of March following such general election. The study shall also evaluate the desirability and feasibility of extending the provisions of section 315(a) of the Communications Act of 1934 to primary and other election campaigns.

SEC. 7. The Federal Communications Commission shall promulgate rules and regulations to implement this Act no later than 180 days after the date of enactment of this Act. Sections 1 and 2 of this Act shall not take effect until such rules and regulations are promulgated.

By Mr. PACKWOOD:

S.J. Res. 357. Joint resolution to designate September 15, 1990 to October 15, 1990, as "Community Center Month"; to the Committee on the Judiciary.

COMMUNITY CENTER MONTH

Mr. PACKWOOD. Mr. President, on April 24, 1990, I introduced a joint resolution to designate September 1990 as "Jewish Community Center Month." Many of my colleagues cosponsored Senate Joint Resolution 300 because of the important contributions Jewish Community Centers have made in the past 100 years.

Unfortunately, Senate Joint Resolution 300 did not conform to the House rules on commemoratives. Therefore, today, as an alternative to Senate Joint Resolution 300, I offer a similar joint resolution, designating September 15, 1990 to October 15, 1990 as "Community Center Month."

This joint resolution recognizes many of the same contributions that Jewish Community Centers have made to our country. I believe it is also fitting to celebrate the similar contributions that other community centers have made.

Community centers throughout the United States provide cultural, social, educational, and recreational services to millions of Americans. During this century, these centers provided important assimilation services to immigrants from Eastern Europe, and continue to be a unique cultural center for young men and women. Community centers are essential to the fabric of American life, offering a wide range of services to all Americans. Because of these important contributions to our society, I offer this joint resolution designating September 15, 1990 to October 15, 1990 as "Community Center Month."

By Mr. PACKWOOD:

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, today, I introduce a joint resolution to designate February 7, 1991 as "National Women and Girls in Sports Day." I have successfully introduced this joint resolution for the past 4 years and hope to continue the tradition.

Each year a woman athlete is presented with the "Flo Hyman Award"—named after the Olympic volleyball star who died in 1986. In 1990, the award representing the commitment and passion that Hyman demonstrated was presented to Chris Evert—winner of 18 grand slam titles and 1,309 matches in her career, more than any other player, male or female. It is my hope that this resolution will inspire future generations of women athletes to strive toward the excellence which Flo Hyman, Chris Evert, and other female athletes exemplify.

Despite recent advances made by women in sports, the number of women coaches and sports administrators has decreased greatly over the past 18 years. It is important to recognize that inequities exist, while highlighting how far women have come in their athletic achievements. Mr. President, I offer this joint resolution designating February 7, 1991 as "National Women and Girls in Sports Day" to honor women's contributions in sports and to encourage all women to participate in athletics.●

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. THURMOND, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor member of the Armed Forces who served in World War II and to commemorate U.S. participation in the conflict.

S. 342

At the request of Mr. DANFORTH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986, to provide that certain credits will not be subject to the passive activity rules, and for other purposes.

S. 891

At the request of Mr. REID, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 891, a bill to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1764

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1764, a bill to require certain consumers of newsprint to use, in their commercial operations, a certain percentage of recycled newsprint.

S. 1931

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1931, a bill to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated.

S. 2033

At the request of Ms. MIKULSKI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KOHL], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2033, a bill to amend title XVIII of the Social Security Act to provide for coverage of annual screening mammography under part B of the Medicare Program.

S. 2114

At request of Mrs. KASSEBAUM, her name was added as a cosponsor of S.

2114, a bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, training, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2286

At the request of Mr. HOLLINGS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2286, a bill to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of a magnetic levitation transportation system.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor or S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2628

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2628, a bill to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes.

S. 2637

At the request of Mr. REID, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2645

At the request of Mr. INOUYE, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2645, a bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.

S. 2653

At the request of Mr. BURNS, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2687

At the request of Mr. BOSCHWITZ, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2687, a bill to expedite the naturalization of aliens who served with special guerrilla units in Laos.

S. 2766

At the request of Mr. MCCAIN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2766, a bill to provide for the restoration of certain Medicare catastrophic benefits, plus addition of colon cancer screening benefit.

S. 2767

At the request of Mr. MCCAIN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2767, a bill to provide for retention of certain Medicare catastrophic benefits provided by health maintenance organizations.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their Title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2805

At the request of Mr. MCCLURE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2805, a bill to amend the Federal Power Act.

S. 2850

At the request of Mr. MCCAIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2850, a bill to authorize demonstration projects in connection with providing health services to Indians.

S. 2951

At the request of Mr. GLENN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2951, a bill to amend title 31 of the United States Code to more effectively control the availability of appropriations accounts.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Missouri [Mr. DANFORTH] were added as a cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor United States combat glider pilots of World War II.

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 309

At the request of Mr. BIDEN, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 309, a joint resolution designating the month of October 1990 as "Crime Prevention Month."

SENATE JOINT RESOLUTION 327

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 327, a joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 337

At the request of Mr. SIMON, the names of the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. DIXON], the Senator from Georgia [Mr. FOWLER], the Senator from Delaware [Mr. BIDEN], and the Sena-

tor from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 337, a joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the names of the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. STEVENS], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Missouri [Mr. DANFORTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the Medicare and Medicaid Programs.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE RESOLUTION 313

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Resolution 313, a resolution relating to Vladimir Tsivkin.

SENATE RESOLUTION 318—RELATIVE TO IRAQ'S INVASION OF KUWAIT

Mr. MITCHELL (for Mr. PELL, for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. MITCHELL, Mr. BIDEN, Mrs. KASSEBAUM, Mr. CRANSTON, Mr. DODD, Mr. COATS, Mr. KENNEDY, Mr. DECONCINI, Mr. ADAMS, Mr. MURKOWSKI, Mr. LEVIN, Mr. KASTEN, Mr. WILSON, Mr. LAUTENBERG, Mr. FORD, Mr. BENTSEN, Mr. COHEN, Mr. REID, Mr. LIEBERMAN, Mr. GRAMM, Mr. SIMPSON, Mr. DOMENICI, Mr. THURMOND, Mr. RIEGLE, Mr. PACKWOOD, Mr. BREAUX, Mr. SASSER, and Mr. INOUYE) submitted the following resolution, which was considered and agreed to:

S. RES. 318

Whereas Iraq during the 1980's, under the leadership of Saddam Hussein, has demonstrated a blatant disregard for international law and all standards of human decency, building a heinous record of atrocity and carnage;

Whereas in 1980 Iraq's invasion of Iran began the Iran-Iraq war, which became one of history's bloodiest;

Whereas, beginning in 1983, Iraq initiated and made extensive use of chemical weapons in the Iran-Iraq war;

Whereas this chemical slaughter constituted the most significant violation of the Geneva Protocol in the 65-year history of that international treaty, to which Iraq is a party;

Whereas Iraq's use of chemical weapons culminated in 1988 in a massive attack on its own Kurdish minority, causing tens of thousands of deaths and more than 65,000 refugees;

Whereas Iraq may be proceding to develop biological weapons in violation of the 1972 international convention prohibiting the manufacture or possession of such weapons;

Whereas Iraq has continued illegal efforts to acquire nuclear weapons technology in violation of United States export laws and Iraq's obligations under the Nuclear Non-Proliferation Treaty;

Whereas the Iraqi effort to develop an indigenous ballistic missile capability represents an additional dimension of Iraq's threat to the Persian Gulf region;

Whereas, domestically, Iraq's human rights record is one of continuing barbarism, characterized by arbitrary imprisonment, government-sanctioned murder, and even the torture, mutilation, and killing of children as a means of terror against their parents;

Whereas Iraq's efforts to eradicate Kurds and depopulate the Kurdish regions of Iraq are tantamount to a policy of genocide;

Whereas Iraq stands in flagrant violation of its obligations under the United Nations Charter and the International Covenant on Civil and Political Rights;

Whereas, in 1988, in response to Iraq's use of chemical weapons against the Kurds, the United States Senate on three occasions passed legislation imposing comprehensive sanctions against Iraq;

Whereas, on July 27, this year, the Senate passed the Iraq International Law Compliance Act in a continuing effort to secure Iraqi compliance with the rule of law;

Whereas in recent days Iraq mobilized forces on its border with Kuwait, issuing a series of bellicose threats, aimed not only at Kuwait but also at Israel and the United Arab Emirates;

Whereas Iraq, on August 1, without provocation and under contrived pretense, invaded the sovereign nation of Kuwait, seizing control of its capital and all national territory;

Whereas the President, on August 2, issued an executive order freezing Iraqi and Kuwaiti assets in the United States, and embargoing all trade with Iraq;

Whereas Iraq's military power in the Persian Gulf area is virtually unchallenged, and its record of callous brutality, opportunism, and belligerency demonstrates that no policy of appeasement or cooperation will constrain the threat Iraq now poses to the security of nations throughout the entire Persian Gulf region and to the international order;

Now, Therefore, Be It Resolved:

That Congress commends the President for his initial actions and urges the President to act immediately, using unilateral and multilateral measures, to seek the full and unconditional withdrawal of all Iraqi forces from Kuwaiti territory; and, specifically, to:

(1) Proceed to enforce against Iraq, unilaterally, all provisions of United States law, including the International Emergency Economic Powers Act, to impose—

(a) sanctions against a country engaged in a consistent pattern of gross violations of internationally recognized human rights,

(b) a sustained freeze of all Iraqi assets, and

(c) a sustained ban on any export of United States goods and services to Iraq; and

(2) Undertake, multilaterally, a concerted diplomatic effort, through the United Nations Security Council and all other available channels, to achieve collective international sanctions against Iraq, to include—

(a) a cessation of all arms shipments and all transfer of military technology to Iraq, with emphasis on—

(i) all Soviet-supplied arms and spare parts, as promised by the Soviet Union immediately after Iraq's invasion;

(ii) all arms and spare parts supplied by other major suppliers; and

(iii) all material and technical assistance from any source that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons;

(b) a cessation of trade with Iraq and a worldwide freeze on Iraqi and Kuwaiti assets;

(c) a suspension of all economic development activities within Iraq, with emphasis on—

(i) oil development activities; and

(ii) construction and other projects supported by American, European, and Japanese industry;

(d) the imposition, under Article 41 of the United Nations Charter, a full economic blockade against Iraq; and

(e) if such measures prove inadequate to secure Iraq's withdrawal from Kuwait, additional multilateral actions, under Article 42 of the United Nations Charter involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1991

McCLURE AMENDMENT NO. 2491

Mr. McCLURE proposed an amendment to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place in the bill add the following: "The Secretary of Interior is authorized and directed to pay, without reimbursement, $1,000,000 to the Fall River

Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project."

STEVENS (AND WIRTH) AMENDMENT NO. 2492

Mr. STEVENS (for himself, and Mr. WIRTH) proposed an amendment to the bill H.R. 5019, supra, as follows:

Insert at the appropriate place in the bill: "The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991.".

NATIONAL DEFENSE AUTHORIZATION ACT

COHEN (AND OTHERS) AMENDMENT NO. 2493

Mr. COHEN (for himself, Mr. LEAHY, Mr. CRANSTON, Mr. HATFIELD, and Mr. WIRTH) proposed an amendment to the bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, as follows:

On page 7, strike out line 7 and all that follows through line 5 on page 8, and insert in lieu thereof the following:

SEC. 113. AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT OF AIRCRAFT FOR THE AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 103(1), the amount authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force is $8,479,056,000.

(b) LIMITATION RELATING TO THE B-2 BOMBER PROGRAM.—Of the funds authorized to be appropriated pursuant to subsection (a), not more than $941,900,000 of such funds may be obligated in connection with the B-2 aircraft program.

PART B—PROGRAM TERMINATIONS

SEC. 121. PROGRAM TERMINATIONS.

LEAHY (AND OTHERS) AMENDMENT NO. 2494

Mr. LEAHY (for himself, Mr. COHEN, Mr. CRANSTON, Mr. HATFIELD, Mr. WIRTH, and Mr. KENNEDY) proposed an amendment to amendment No. 2493 proposed by Mr. COHEN (and Mr. LEAHY) to the bill S. 2884, supra; as follows:

On page 1, line 9, strike out "$8,479,056,000." and all that follows and insert in lieu thereof "$7,537,156,000."

"(b) TERMINATION OF B-2 AIRCRAFT PROCUREMENT.—Funds authorized to be appropriated to the Department of Defense pursuant to this or any other Act may not be obligated for the B-2 aircraft program except for—

"(1) completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act;

"(2) research, development, test, and evaluation, including flight testing of the B-2 aircraft; and

"(3) costs relating to termination of production under the B-2 aircraft program.

"(c) REQUIREMENT TO REVISE B-2 AIRCRAFT PROGRAM.—The Secretary of the Air Force shall revise the B-2 aircraft program consistent with the limitation contained in subsection (b) and, not later than February 1, 1991, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the revised program.

"PART B—PROGRAM TERMINATIONS

"SEC. 121. PROGRAM TERMINATIONS".

DIXON (AND OTHERS) AMENDMENT NO. 2495

Mr. DIXON (for himself, Mr. HOLLINGS, Mr. BRYAN, Mr. BINGAMAN, and Mr. SHELBY) proposed an amendment to the bill S. 2884, supra, as follows:

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. PROHIBITION ON USE OF FUNDS IN CONNECTION WITH RELOCATION OF FUNCTIONS FROM TERREJON AIR FORCE BASE, SPAIN, TO CROTONE, ITALY.

Funds appropriated to or for the use of the Department of Defense, including funds appropriated for making contributions to the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may not be obligated for construction in connection with the relocation of any function of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

THURMOND (AND OTHERS) AMENDMENT NO. 2496

Mr. THURMOND (for himself, Mr. DOLE, Mr. HEFLIN, Mr. NUNN, and Mr. WARNER) proposed an amendment to the bill, S. 2884, supra, as follows:

On page 223, line 24, insert the following new section:

SEC. 1216. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) Six hundred thousand members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the men and women who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the battle, the participants of the battle, and World War II.

(6) The Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of that battle.

(7) Installation of a gallery at the museum will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set as a goal to raise $1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

ROTH (AND DANFORTH) AMENDMENT NO. 2497

Mr. ROTH (for himself and Mr. DANFORTH) proposed an amendment to the bill, S. 2884, supra, as follows:

At the appropriate place in the bill, add the following new section:

The government of the United States has publicly committed itself to the reduction of the military forces which it deploys in Western Europe in general, and in the Federal Republic of Germany in particular;

The U.S. Army already is drawing up plans for the closure and realignment of U.S. military facilities in the Federal Republic of Germany;

Many U.S. military facilities in the Federal Republic of Germany are located on municipal property of high value.

The continuance of cordial relations between the peoples of the United States and Federal Republic of Germany is a matter of major concern, both for the health of U.S.-German relations and the strength of the North Atlantic Treaty Organization: Now, therefore, be it the sense of the Senate that the Department of Defense should, whenever possible, consult closely with the central, state and municipal authorities in the Federal Republic of Germany with a view to closing those U.S. facilities located in municipal areas with high property values, par-

ticularly when those facilities could be developed for commercial or residential purposes.

ROTH (AND OTHERS) AMENDMENT NO. 2498

Mr. ROTH (for himself, Mr. MCCONNELL, and Mr. SANFORD) proposed an amendment to the bill, S. 2884, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization (NATO) to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense. In carrying out such a study, the Secretary shall consider—

(1) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(2) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall submit to Congress a report containing the results of the study required by subsection (a) together with such comments and recommendations the Secretary considers appropriate.

(c) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (c) not later than January 1, 1991.

GLENN (AND OTHERS) AMENDMENTS NOS. 2499 AND 2500

Mr. GLENN (for himself, Mr. BINGAMAN, Mr. WALLOP, Mr. NUNN, and Mr. WARNER) proposed two amendments to the bill, S. 2884, supra, as follows:

AMENDMENT NO. 2499

At the end of section 832 add the following:

(k) CRITICAL-POSITION PAY AUTHORITY.—(1) Subchapter I of chapter 53 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5309. Critical-position pay authority

"(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

"(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

"(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

"(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

"(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

"(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

"(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

"(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

"(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

"(A) the criteria that should be used to determine which positions should be critical positions; and

"(B) the qualifications that should be expected of individuals assigned to critical positions.

"(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

"(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5308 the following new item:

"5309. Critical-position pay authority.".

AMENDMENT NO. 2500

On page 166, below line 21, insert the following new section:

SEC. 834. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS FOR CERTAIN FEDERAL GOVERNMENT LABORATORIES.

(a) PURPOSE.—The purpose of this section is to provide a basis for evaluating one or more alternative personnel management systems for scientific positions, engineering positions, technical support positions (including positions requiring proficiency in advanced mathematics) and managerial positions in Federal Government laboratories in order to enhance the recruitment, retention, and motivation of well-qualified civilian personnel for such positions and to provide appropriate compensation for such personnel.

(b) DEMONSTRATION PROGRAM.—(1) Not later than one year after the date of the enactment of this Act—

(A) the Director of the Office of Personnel and Management—

(i) shall designate one or more agencies to conduct one or more demonstration programs for the purpose of this section; and

(ii) with the head of each agency so designated, shall jointly develop each such demonstration program for such agency; and

(B) the head of each agency so designated shall implement the demonstration program or programs jointly developed with the Director.

(2)(A) The head of an agency designated to conduct a demonstration program shall designate—

(i) the agency laboratory or laboratories that are to be involved in the demonstration program; and

(ii) the scientific positions, engineering positions, technical support, or managerial positions at each such laboratory that are to be covered by the alternative personnel management system implemented pursuant to the demonstration program.

(B) The head of an agency may designate for coverage by an alternative personnel management system pursuant to subparagraph (A) only those positions the rates of basic pay for which would be established, except for this section, under—

(i) section 3104 of title 5, United States Code, relating to specially qualified personnel;

(ii) subchapter III of chapter 53 of such title, relating to the General Schedule; or

(iii) chapter 54 of such title, relating to the performance management and recognition system.

(3) Each alternative personnel management system implemented pursuant to the demonstration program shall cover a sufficient number of employees to provide an adequate basis on which to evaluate the feasibility and desirability of implementing such a system on a broader scale in Federal Government laboratories.

(4) The demonstration programs conducted pursuant to this section shall not be considered as demonstration programs for the purposes of section 4703 of title 5, United States Code.

(c) CLASSIFICATION.—Each alternative personnel management system implemented pursuant to a demonstration program under this section shall provide for the classification of employee positions in occupational groups. An occupational group shall include positions that are similar in the following respects:

(1) The responsibilities and complexities of the positions.

(2) Qualifications necessary for performance of such responsibilities.

(d) PAY RANGES.—(1) A range of rates of basic pay shall be established for the positions in each occupational group.

(2) The minimum rate of basic pay in a pay range shall be equal to the lowest minimum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(3)(A) Subject to subparagraph (B), the maximum rate of basic pay in a pay range shall be equal to the highest maximum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(B) The maximum rate of basic pay of a pay range applicable under an alternative personnel management system to positions in an agency laboratory may exceed the maximum rate permitted under subparagraph (A) if the head of the agency determines that, because of adverse working conditions at the laboratory or the undesirability of the geographical location of the laboratory, the increased maximum rate of basic pay is necessary to ensure the recruitment and retention of a sufficient staff of qualified employees.

(C) The maximum rate of basic pay established under subparagraph (B) for a pay range applicable to positions in an agency laboratory may not exceed the lesser of—

(i) the rate necessary to ensure the recruitment and retention of a sufficient staff of qualified employees, as determined by the head of such agency;

(ii) the amount equal to 160 per cent of the maximum rate of basic pay that, except for such subparagraph, would be permitted under subparagraph (A); or

(iii) the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) The minimum and maximum rates of basic pay in a pay range shall be adjusted at the same times and to the same extent as the rates of basic pay under the statutory pay systems pursuant to section 5305 of title 5, United States Code.

(e) SPECIFIC RATES OF BASIC PAY.—(1) For each alternative personnel management system implemented at an agency laboratory under a demonstration program conducted at such laboratory, the head of such agency shall prescribe the criteria for establishing, within the applicable pay range, the initial rate of basic pay of an employee appointed to a position covered by the system and for increasing the employee's rate of basic pay within such pay range.

(2) Subject to paragraph (3), the head of an agency laboratory shall establish the initial rate of basic pay for an employee within a pay range, and from time to time increase the rate of basic pay of the employee referred to in paragraph (1) within the pay range, on the basis of the criteria prescribed under paragraph (1).

(3) In the case of an employee employed in a position at an agency laboratory immediately before that position becomes covered by an alternative personnel management system under this section, the rate of basic pay established for such employee under the alternative personnel management system may not be less than the rate of basic pay payable to such employee immediately before the position becomes covered by such system.

(f) OTHER PAY.—(1) Each alternative personnel management system shall provide for payment of managerial differential pay for managerial personnel and supervisory differential pay for supervisory personnel. The payment of differential pay to an employee in a managerial or supervisory position shall be in addition to the payment of the basic pay provided for such employee.

(2) Each alternative personnel management system applicable to an agency laboratory shall provide for payment of cash awards for meritorious performance subject to budgetary considerations of such laboratory.

(3) Each alternative personnel management system shall provide for payment of recruitment bonuses and retention bonuses when necessary to meet employee recruitment and retention needs.

(4) Differential pay, cash awards, recruitment bonuses, and retention bonuses may not be considered as basic pay for any purpose.

(g) TRAVEL ALLOWANCES.—Each alternative personnel management system shall provide for payment of reasonable travel expenses of—

(1) a new appointee for a position covered by such system to the same extent as is provided for a new appointee to the Senior Executive Service under section 5723(a)(1)(B) of title 5, United States Code; and

(2) a candidate for appointment to a position covered by such system, and the candidate's spouse (if any), in connection with an employment interview.

(h) APPLICATION AND APPOINTMENT PROCEDURES.—Each alternative personnel management system implemented at an agency laboratory shall include procedures—

(1) for a candidate for appointment to a position covered by such system to submit an application directly to the head of the laboratory; and

(2) consistent with sections 2301 and 3309 of title 5, United States Code, for appointment and assignment of a person directly to such a position at such laboratory.

(i) PERFORMANCE EVALUATIONS.—Each alternative personnel management system shall provide procedures for evaluating the job performance of employees covered by the system.

(j) LIMITATIONS ON PROGRAM COSTS.—(1) The total amount of the personnel costs incurred by the Federal Government for employees in positions covered by an alternative personnel management system under a demonstration program conducted under this section may not exceed the total amount of the personnel costs that, except for the implementation of such alternative personnel management system, would have been incurred by the Federal Government for such employees.

(2) The total amount paid an employee as basic pay, differential pay, recruitment bonuses, retention bonuses, and performance awards under an alternative personnel management system under this section in any fiscal year may not exceed the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect on the last day of such fiscal year.

(k) PROGRAM PLAN; PROJECT REVIEW.—(1) Before implementing a demonstration under this section, the head of the agency in which the program is conducted shall develop a plan for such program.

(2) The plan for a program shall—

(A) provide criteria for the evaluation of such program; and

(B) specify the total number of employee positions to be covered by the program when the program is fully implemented.

(3) The head of the agency shall submit the program plan to the Comptroller General of the United States at least 60 days before the program is implemented.

(4) Not later than one year after the implementation of a demonstration program, and on an annual basis thereafter during the period in which demonstration programs are conducted under this section, the Comptroller General shall review each demonstration program to determine whether the program meets the criteria specified in the program plan.

(5) The Comptroller General shall submit an annual report containing the results of the review to—

(A) the Committees on Armed Services and Governmental Affairs of the Senate;

(B) the Committees on Armed Services and Post Office and Civil Service of the House of Representatives; and

(C) the Secretary or agency head.

(l) DEFINITIONS.—In this section:

(1) The term "agency" has the meaning given the term "Executive agency" in section 105 of title 5, United States Code.

(2) The term "agency laboratory" means a Federal Government laboratory of an agency.

(3) The term "Federal Government laboratory" means a government-owned, government-operated laboratory within an agency.

(4) The term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

(m) TERMINATION DATE.—Each demonstration program conducted pursuant to this section shall terminate not later than 10 years after the date on which such program begins.

ROTH (AND OTHERS) AMENDMENT NO. 2501

Mr. ROTH (for himself, Mr. THURMOND, and Mr. SANFORD) proposed an amendment to the bill S. 2884, supra, as follows:

At the end of title VIII of the bill, insert the following new section:

SEC. . SUSPENSION OF PAYMENTS

(a) IN GENERAL.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the head of an agency determines that there is substantial evidence that the request of a contractor for advance, partial, progress, or other payment under a contract awarded by that agency head is fraudulent, the agency head may suspend further payments under the contract unless the suspension would unduly interfere with or jeopardize a law enforcement investigation.".

(b) INFORMATION FROM CONTRACTOR.—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines sufficient to permit the Secretary to carry out the preceding sentence.".

(c) EFFECTIVE DATE.—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), respectively, shall apply with respect to contracts in effect on the date of the enactment of this Act and contracts entered into on and after that date.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2502

Mr. BINGAMAN (for himself, Mr. GORE, and Mr. MCCAIN) proposed an amendment to the bill S. 2884, supra; as follows:

On page 181, between lines 8 and 9, insert the following new section:

SEC. 855. ESTABLISHMENT OF DARPA OFFICE IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall establish a branch office of the Defense Advanced Research Projects Agency (DARPA) of the Department of Defense in Japan.

(b) FUNCTION OF BRANCH OFFICES.—It shall be the function of the branch office established pursuant to subsection (a)—

(1) to investigate and evaluate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Defense Advanced Research Projects Agency (DARPA); and

(2) to make such recommendations to the Director of the Defense Advanced Research Projects Agency as the branch office considers appropriate regarding the desirability of

DARPA entering into a cooperative arrangement with Japan with respect to the development of particular technologies.

BRADLEY (AND OTHERS) AMENDMENT NO. 2503

Mr. BRADLEY (for himself, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CRANSTON, Mr. COHEN, Mr. KERRY, Mr. PELL, Mr. BENTSEN, and Mr. KENNEDY) proposed an amendment to the bill S. 2884, supra; as follows:

On page 27, between lines 11 and 12, insert the following new section:

SEC. 321. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by a military department with a unit of local government for the provision by such unit of local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

LAUTENBERG (AND BRADLEY) AMENDMENT NO. 2504

Mr. LAUTENBERG (for himself and Mr. BRADLEY) proposed an amendment, which was subsequently modified, to the bill S. 2884, supra, as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for providing access to civilian commercial aircraft to such airspace.

McCONNELL (AND FORD) AMENDMENT NO. 2505

Mr. WARNER (for Mr. MCCONNELL, for himself, and Mr. FORD) proposed an amendment to the bill S. 2884, supra, as follows:

At an appropriate place, add the following new section:

Whereas dramatic changes have occurred in the military situation in Europe;

Whereas the Warsaw Pact is no longer a credible military threat to NATO;

Whereas it appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced by arms control agreements or unilateral actions;

Whereas the need for armor forces has not disappeared and many countries in the world possess large inventories of modern tanks;

Whereas the Soviet Union will still produce 1,400 new tanks in 1990;

Whereas with significantly increased warning times of enemy attack, greater reliance will be placed on U.S. Reserve Component Forces for Armored Heavy Force reinforcement missions;

Whereas there is a need to enhance the capabilities of Reserve Component Armored Forces to assume increased responsibilities for Armored Heavy Force reinforcement missions;

Now, therefore, it is the sense of the Senate that—

(1) The U.S. Army should take timely and necessary steps to enhance the capabilities of Reserve Component Armored Forces.

(2) The U.S. Army Armor Center will remain the center for training, education, doctrine and combat development for U.S. Armored Forces—for both Active and Reserve Components.

(3) The U.S. Army Armor Center should ensure that Reserve Component Armored Forces are adequately prepared for the increased reliance that will be placed on their greater role in Armor Heavy Force reinforcement missions.

HELMS (AND OTHERS) AMENDMENT NO. 2506

Mr. WARNER (for Mr. HELMS, for himself, Mr. DOLE, Mr. WARNER, Mr. NUNN, Mr. WALLOP, Mr. LUGAR, and Mr. MCCLURE) proposed an amendment to the bill S. 2884, supra, as follows:

At the end of the bill add the following new section:

"SEC. . It is the sense of the Senate that, pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before concluding a proposed Strategic Arms Reduction Treaty, the President provide:

"(1) A special classified and unclassified report to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of East Germany, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed; and

"(2) A special classified and unclassified report to the Senate on whether the Soviet Krasnoyarsk radar, which Soviet Foreign Minister Shevardnadze admitted is a clear violation of the ABM Treaty, has been verifiably dismantled in accordance with United States' criteria.".

LEVIN (AND OTHERS) AMENDMENT NO. 2507

Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. ROTH, Mr. BINGAMAN, and Mr. WALLOP) proposed an amendment to the bill S. 2884, supra, as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15 add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace' ".

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new pararaphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following new subsection:

(f) COMMERCIAL AND NONDEVELOPMENTAL ITEMS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41

U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a)(1) The Federal Acquistion Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;

"(ii) performance required; or

"(iii) essential physical characteristics;

"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards for applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) clarification that an agency may not, in the case of any item for which the Administrator of General Services has accepted a certificate of established catalog price, require a contractor to demonstrate that such an item meets the requirements of section 304(d)(5)(A)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(5)(A)(ii)) during the period in which a contract to which the certification relates is in effect.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency.".

(2) The table of contents for the Federal Property and Administrative Services Act of 1984 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopmental items.".

(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

(A) contracting officers in the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commerical cost data; and

(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.".

(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

(C) such recommendations for changes in law or regulation as the Comptroller General of the United States may consider appropriate.

LEVIN (AND OTHERS) AMENDMENT NO. 2508

Mr. LEVIN (for himself, Mr. BINGAMAN, Mr. WALLOP, and Mr. GLENN) proposed an amendment to the bill S. 2884, supra, as follows:

In section 833, strike out subsection (a) and all that follows through "(d) TECHNICAL AMENDMENT.—Section" and insert in lieu thereof the following:

(a) EXTENSION OF PERIOD OF SUSPENSION OF CERTAIN PROVISIONS OF LAW.—Section 507 of the Ethics Reform Act of 1989 (Public Law 101-194; 103 Stat. 1759) is amended by striking out "one year after such day" and inserting in lieu thereof "May 31, 1991".

(b) TECHNICAL AMENDMENT.—Section

DOLE (AND OTHERS) AMENDMENT NO. 2509

Mr. WARNER (for Mr. DOLE, for himself, Mr. LUGAR, Mr. WARNER, and Mr. GRAMM) proposed an amendment to the bill S. 2884, supra, as follows:

At an appropriate place, add the following:

FINDINGS.—The Senate makes the following findings:

(1) The men and women in the United States Air Force, Marine Corps and Navy, serving in the pacific region, have given substantial and significant assistance to the government and people of the Philippines following the July 16 earthquake, which resulted in the deaths of over 1,600 people, as well as severe dislocation and devastation.

(2) U.S. military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20th.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions, and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from Subic Bay have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems, and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by members of Clark Air Force Base and other Pacific Air Force bases, and 120 unis of blood were donated by members of Subic Bay Naval Facility.

It is the sense of the Senate, that—

(1) The earthquake relief assistance provided by U.S. military forces has played an essential role in the Philippine recovery from the July 16 earthquake.

(2) Those U.S. armed forces and their dependents who have assisted in Philippine earthquake relief should be commended by the United States Senate for their considerable efforts on behalf of the Philippine people in their recovery efforts.

DOLE AMENDMENT NO. 2510

Mr. WARNER (for Mr. DOLE) proposed an amendment to the bill S. 2884, supra, as follows:

SENSE OF THE SENATE; TO COMMEND THE WORK OF THE NATIONAL GUARD AND RESERVES

The Senate finds that:

Since the birth of this Nation, the citizen-soldier of the United States has protected their fellow citizens from tyranny, invasion, violence and natural disasters; and

Since the revolution that threw off our yoke of colonialism, to assisting the Panamanians in their struggle over tyranny, the citizen-soldiers of the National Guard and Reserves, have fought in the defense of freedom; and

As the resolve and sacrifice of our National Guard and Reserves over the last forty-five years gave them a lead role in our Nation's winning the cold war; and

As we enter the final decade of this century with our Nation facing new and varied threats to peace, it is imperative that our Guard and Reserve be prepared to respond in a changing world; and

As the National Guard and Reserves make up a large part of our Nation's combat and support units, their mobilization and training will remain vital to our national security; and

As the outstanding Americans who serve in the National Guard and Reserves have maintained their level of exellence through their hard work and dedication to duty, our citizen soldiers have proved our Nation can continue to rely on them in any national emergency; and

The qualities that have given the National Guard and Reserves its venerable history, are still present today: now

Therefore the United States Senate acknowledges the valuable contribution that the men and women of our National Guard and Reserves have made to our Nation's security, and the continue to support their role as the foundation of our national defense in a changing world.

DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 2511

Mr. LEVIN (for Mr. CRANSTON, for himself and Mr. MURKOWSKI), proposed an amendment to the bill (H.R. 1199) to amend title 38, United States Code, to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility in the pay system for those nurses and to authorize the Secretary of Veterans Affairs to provide certain procreative services for married veterans with service-connected disabilities which impair their ability to procreate, as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New Grades	*Current nurse grades*
1. Entry grade	Junior and associate grades.
2. Intermediate grade	Full and intermediate grades.
3. Senior grade	Senior and chief grades.
4. Director grade	Assistant director and director grades.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Entry grade.
"Intermediate grade.
"Senior grade.
"Director grade.".

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PERSONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"Subchapter IV—Pay for Nurses and Other Health-Care Personnel

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased re-

sponsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions of a part-time basis) are sufficient for the facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rate of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of the facility shall conduct a survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making industry-wage surveys except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rate of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for the grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survery under paragraph (3)(B) or at any other time that a adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under subsection is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces that rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is

subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

"(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subection (d)(1)(A) effective during the 12 months proceeding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

"(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provide in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparision to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4124. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed $2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the adminstration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position of employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include docmentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department heath-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title.".

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.

"4142. Nurses and other health-care personnel: administration of pay.

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out "not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section: "§ 620C. Noninstitutional alternatives to nursing home care: pilot program

"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term 'case management services' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care:

(b) REPORT.—No later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees of Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "Health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period "and to funds that have been alloted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.".

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990,".

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: Individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under sec-

tion 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.

"4351. Authority for program.
"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.
"4353. Amount of assistance.
"4354. Obligated service.
"4355. Breach of agreement; liability."

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount." and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount.";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter.".

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

§ 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs."

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an individual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

HARKIN AMENDMENT NO. 2512

Mr. LEVIN (for Mr. HARKIN) proposed an amendment to the bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in

the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except admin-

istrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons

with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

TELEVISION DECODER CIRCUITRY ACT

INOUYE AMENDMENT NO. 2513

Mr. LEVIN (for Mr. INOUYE) proposed an amendment to the bill (S. 1974) to require new televisions to have built-in decoder circuitry, as follows:

On page 5, line 14, strike "October 1, 1992" and insert in lieu thereof "July 1, 1993".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Thursday, August 2, 1990, to examine problems in the Small Business Administration's Small Business Investment Companies [SBIC] Program. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call John Ball, staff director of the committee at 224-5175.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, August 2, 1990, at 9:30 a.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 2, at 10 a.m. to hold a hearing on the Convention on the Elimination of All Forms of Discrimination Against Women (Ex. Rept. 96-2).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on August 2 at 2 p.m. to hold a nomination hearing. National Tree Trust Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 2, 1990, at 10 a.m. to conduct a hearing on bank and thrift fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITEE ON HOUSING AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 2, 1990, at 2 p.m. to conduct a hearing to review the Department of Housing and Urban Development's report on the safety and soundness of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1990, at 2 p.m. on the Emerging Telecommunications Technologies Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1990, at 10 a.m. on the views of the NSF Director regarding science and technology issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 2 p.m. Thursday, August 2, 1990, for a continuation of the 9 a.m. hearing concerning energy efficiency.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 9 a.m. Thursday, August 2, 1990, for a hearing to receive testimony on S. 2923, legislation to amend title III of Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy production to enhance energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, August 2, at 9:30 a.m. for a hearing on the subject: Control and financial management of expired appropriations accounts.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 2, 1990, at 2 p.m. to hold a closed markup on S. 2726.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, August 2, 1990, at 9:30 a.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on August 2, 1990, at 10:30 a.m., room SD-226.

Agenda:

I. NOMINATIONS

U.S. District Judges: Charles W. Pickering, Sr., to be U.S. district judge for the Southern District of Mississippi.

U.S. Attorneys:

Fred L. Foreman, to be U.S. attorney for the Northern District of Illinois.

Stanley A. Twardy, Jr., to be U.S. attorney for the District on Connecticut; and

Joe D. Whitley, to be U.S. attorney for the Northern District of Georgia.

U.S. Marshals:

Anthony L. Bennett, to be U.S. marshal for the District of Minnesota; and

Lynn H. Duncan, to be U.S. marshal for the Northern District of Georgia.

Board of Directors of the State Justice Institute: Keith McNamara, to be a member of the Board of Directors of the State Justice Institute.

II. COMMITTEE RESOLUTIONS

To express the sense of the Committee on the Judiciary concerning membership in clubs that engage in discrimination—Kennedy.

To express the sense of the Committee on the Judiciary concerning membership in clubs that engage in discrimination—Grassley.

III. FEDERAL CHARTER

S. 1834, a bill to recognize and grant a Federal Charter to the organization known as the Supreme Court Historical Society—Lieberman.

IV. BILLS

S. 1965, a bill to protect the rights of victims of crime, establish a Federal victims' bill of rights for children, and improve the response of the criminal justice system and related agencies to incidents of child abuse—Biden.

S. 591, as amended, a bill to amend the Federal Rules of Criminal Procedure with respect to the examination of prospective jurors—Heflin.

S. 592, as amended, a bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors—Heflin.

S. 982, a bill to repeal a provision of Federal tort claim law relating to the civil liability of government contractors for certain injuries, losses of property, and deaths—Reid.

S. 2313, a bill to provide emergency Federal assistance to drug emergency areas—Biden.

H.R. 2138, a bill to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work—Brooks.

S. 2756, a bill to encourage national law enforcement cooperation—Biden.

S. 2650, a bill to implement a national drug strategy to prevent illegal use of drugs, and for other purposes—Biden.

S. 1198, a bill to amend title 17, United States Code, to provide certain rights to attribution and integrity to authors of works of visual art—Kennedy.

S. 1629, a bill to establish clearly a Federal right of action by aliens and United States citizens against persons engaging in torture of extrajudicial killings—Specter.

S. 953, a bill to amend the Immigration and Nationality Act to revise the grounds of exclusion for admission into the United States—Simpson.

S. 1263, a bill to treat Hong Kong as a separate foreign state for purposes of applying the numerical limitations on immigration—Simon.

H.J. Res. 520, a joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact—Hoyer.

The PRESIDING OFFICER. Without objection, it is so amended.

ADDITIONAL STATEMENTS

CHESTER KRAUSE

● Mr. KASTEN. Mr. President, I rise today out of respect for the achievement of a great entrepreneur and a great Wisconsinite—Chester Krause of Iola, WI.

Chet is a good friend who has been named 1990 "Wisconsin Small Business Person of the Year" by the U.S. Small Business Administration. This award—which makes Chet a candidate for the National Small Business Person Award—is a well-deserved recognition of Chet's achievement in building Krause Publications into a vital and thriving enterprise.

In 38 years, Chet built his company up from 1 employee producing 1 publication to over 261 employees producing 26 periodicals and more than 45 books. Thanks in large part to Chet's own innovativeness, the revenues of Krause Publications have nearly tripled since 1984.

Chet is a hero and role model for American business, because his example calls all of us back to the basics—finding out what people want and need, and giving it to them.

As we debate the size and cost of Government, we would do well to take a lesson from Chet Krause—a man who prospers by staying in touch with his customers.

I am sure all my colleagues will join me in offering warm congratulations to Chet on the important honor he has received.●

HDTV—THE TECHNOLOGY OF THE FUTURE

● Mr. HEINZ. Mr. President, there has been a great deal of discussion over the value of high definition television, and I am well aware that this debate has sometimes questioned what that value actually is. There should be no doubt that the importance of HDTV will prove to be enormous and even, one day, crucial to the economic and military security of this country.

The reason HDTV is so important is not because people want larger television sets or screens they can hang on their walls at home. HDTV is important because it represents the integration of the computer with the television that will be the foundation of the entertainment and computer systems of the future. As such, it will be the driving force behind a number of critical new technologies such as high-performance displays, digital signal processors, and fast, high-density magnetic, and optical data storage. And it is essential, because it represents a unique opportunity for the United States to regain a foothold in the technologically critical, consumer electronics market.

There are those who have argued that advances in linkage technologies will come about with or without HDTV, so long as industries such as computers and telecommunications are kept strong. But this argument misses the point. In today's world of interlinked technologies, it is shortsighted to consider the health of one industry without considering that of other, crucial industries. Computers and telecommunications will remain among the industrial strengths of this country only if the HDTV industry is there to provide them with the computer monitors and signal processors of the future and to propel the state-of-the-art in other technologies.

In its recent report "The Big Picture: HDTV and High-Resolution Pictures," the Office of Technology Assessment concluded that HDTV is indeed driving the state-of-the-art to a significantly greater degree that would existing industries by themselves. For instance, HDTV is spurring astonishing improvements in digital signal processor [DSP] technology, because of the enormous information flows that HDTV will entail. Digital signal processors are essential to computer modems, optical-storage technologies—such as in compact-disc players—facsimile mail, and long-distance telecommunications. These are just a few of the industries that are presently benefiting from HDTV research and development and that will eventually come to depend on it.

HDTV and its proponents have skeptics, however, who have argued that the market is best equipped to make both economic and technological judg-

ments. That is, of course, theoretically the most desirable approach, but we all know that on occasion the market fails to make appropriate judgments.

A disturbingly current example is the U.S. manufacture of television sets. A few days ago, I discussed how this industry was brought down not by the unadulterated laws of market economics, but by unnatural and unregulated interference. The reason that American companies no longer manufacture television sets is not because these companies never made good products, but because the sale of their products was sabotaged by dumping primarily by firms from Japan. The market was further distorted by collusion between Japanese suppliers and some United States retailers seeking to escape the consequences of the dumping determination.

So where does this leave the infant U.S. HDTV industry? Unlike the U.S. television producers of the 1970's, the U.S. HDTV producers of the 1990's will not be the entrenched force in the marketplace. They will not be the industry leaders in manufacturing and technology. And they will not be the initial favorite of consumers.

For these reasons, we must make sure that, unlike the U.S. television producers of the 1970's, the U.S. HDTV producers of the 1990's are not ignored by their Government. If cooperation with their Government allowed Japanese firms to overtake their United States competition in the production of television sets, imagine what Japan can do in the HDTV industry, in which it is already the leader. We must be sure to learn from history, but we can also take heart from it. Japanese trade policy enabled Japanese manufacturers to become the dominant world force in television production in the 70's. We must now make sure the United States similarly comes out on top in HDTV production. It is a battle we cannot afford to lose.●

LETTER FROM PRANAS MORKUNAS

● Mr. LAUTENBERG. Mr. President, I rise to share with my colleagues a letter I have received from Pranas Morkunas, a formerly exiled Lithuanian citizen.

Mr. President, Pranas Morkunas was deported to Siberia from his native Lithuania in 1948 by the Soviet occupation authorities, 8 years after the Soviet Union illegally occupied the independent nation of Lithuania. Pranas Morkunas would spend the next 40 years of his life suffering the hardships of exile in a Soviet gulag, a fate suffered by over 600,000 Baltic victims of the Soviet occupation in Siberia and elsewhere, until the Sajudis government was able to return him home to Lithuania in 1988. The Lithuanian people, like Pranas Markunas, have endured great hardships, and yet despite these terrible trials, have triumphed over oppression, resisted despair, and still dare to long for freedom.

In his letter, Pranas Morkunas appeals to the United States for help in supporting Lithuania's 50-year-old struggle for self-determination and independence. I believe Mr. Morkunas' appeal expresses the sentiments and opinions of many Lithuanian Americans, as well as his fellow Lithuanians. He warns that the oppression against the Lithuanian people continues. I ask that the entirety of Mr. Morkunas' letter be included in the RECORD in order that my colleagues may review it themselves.

At this critical moment in Lithuania's struggle for freedom, the United States must support their aspirations and support the goal of self-determination and independence. As representatives of a nation that believes in the right of all people to be free, we must communicate our continued solidarity with their cause, and our continued support for finding a negotiated peace settlement.

The letter follows:

TO THE DEAR PRESIDENT OF THE USA MR. GEORGE BUSH

Dear President: All nations big and small, just like any human being want to live in freedom on this Earth developing their economy and culture.

Lithuania occupied by the Soviet Union in 1940 after the agreement between the two aggressors Stalin and Hitler was signed, sought freedom for 50 years, has shed much blood and suffered immensely. Hundreds of thousands of honest people without any guilt passed through stalinist concentration camps of death, starvation and suffering and through the hardships of deportation on vast expanses of Siberia. Many remained buried for ever in the Siberian earth, but were not defeated spiritually. However, the nation was not crushed, it survived and at last on March 11, 1990 the democratically elected Lithuanian Parliament expressing the people's will declared the restoration of the independent Lithuania state. The insidious enemy again wants to crush our people. Our land is tramped by paratroopers, the tanks are destroying our roads, state offices are occupied by the soldiers, innocent people are beaten and injured. The invaders with a handful of traitors and selfish people who betray national ideals try to sow discord among the nations. Economic blockade is carried out in the presence of the Soviet Army. Where are the declarations on the right of self-determination for the nations, respect of their national sovereignity and aid to them? What can be said about the leaders who do not keep their promises with respect to the freedom-loving nation? Can we trust them?

I, who was innocently accused by the Soviet occupation authorities on May 22, 1948 has passed many years of Soviet deportation in Siberia separated from my native land and rehabilitated by the Government on October 21, 1988 as a result of the Sajudis pressure, appeal to you President of the USA, asking to respect the right of self-determination for the people who live in freedom and to help them to get rid of the occupation regime. At this critical moment for my native Lithuania I sincerely ask you to help it economically, to recognize the legitimate Government of the Lithuanian republic and to demand the withdrawal of the Soviet occupation forces from the territory of the Lithuanian republic. This is our land from the times out of mind and our people have no other place on the Earth.

May God repay you for your good-will aid to my native Lithuania.

Very respectfully,

PRANAS MORKUNAS,
Former exile.●

PAYMENT OF PHYSICIANS AND PLUMBERS

● Mr. GRASSLEY. Mr. President, I would like to submit for the RECORD a letter I received from a physician constituent, Dr. William C. Mobley of Davenport, IA. I believe that this letter illustrates the hassle and inadequate reimbursement that Medicare regulations impose on our physicians. While I certainly acknowledge that physician's services, as they directly affect our health and well-being, are hardly the same thing as a plumber's services, I am nevertheless concerned that we are creating, maybe have created, an overly heavy burden on the health care providers of this Nation, particularly on the providers in our small, rural communities. Iowa is already seeing our small, rural clinics and primary care physicians sag under the administrative load of excessive paperwork and both the physicians and the hopstials in Iowa struggle with reimbursement problems.

Dr. Mobley's telling anecdote clearly presents the discouraging experience that physicians encounter daily as they provide services to Medicare beneficiaries.

The letter follows:

UROLOGICAL ASSOCIATES, P.C.,
Davenport, IA, July 16, 1990.

Hon. CHARLES GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: Recent Medicare burdens on physicians in Iowa have caused access to reasonable health care in Scott County, Iowa, to suffer. In 1985 there were 40 primary care physicians in Scott County. Now there are 36, and only two of them are accepting new patients. regulatory burdens of Medicare which increase office overhead coupled with ridiculously low reimbursements by Medicare for health care services in Iowa have caused many Scott County physicians to move their practices elsewhere, or alternatively to simply give up and stop practicing.

A recent experience vividly illustrates the absurdity of current Medicare reimbursement policies. A few days following the Davenport flood, I made a house call to a debilitated elderly patient who relied on a tube entering through his abdomen to drain urine out of his bladder. The tube was plugged up and required emergent care. This type of service is best provided in a physician's office, but since this elderly patient was having additional profound problems with transportation and a flooded basement, I felt obliged to try to assist him

urgently at his home. Evaluating him, removing the old tube, replacing it with a new one, and assuring myself and the patient that the new tube was functioning properly required 45 minutes. I was away from my office of over one hour.

At the same time I was seeing the patient, a plumber stopped in to assess the damage to the patient's water heater and furnace which resulted from the flooded basement. The plumber spent 12 minutes in the house. He repaired nothing, and gave estimates for replacing the furnance and water heater.

The plumber's bill was $48.00. The patient wrote him a check and paid him in full on the spot.

Medicare, on the other hand, by law requires me, as a participating physician, to submit bills to Medicare for the patient. In addition, Medicare has allowed only a $40.00 reimbursement for my services and I am forbidden by law from billing the patient any amount greater than this.

Do you not feel that it is peculiar that a 12 minute estimate for plumbing repair is worth more in Scott County than the 45 minute provision of an emergent and sophisticated medical service to a patient living in Scott County? Of course, 3 weeks later, I have not yet received a check from Medicare either.

I will await your response considering the value of Medicare in Scott County. However, the next time you hear about high doctor bills, I hope you will remember this story and ask, "High, compared to what?" The next time you hear about physician shortages in Iowa, I hope you will remember what causes doctors to move elsewhere or to simply give up and no longer treat patients.

Sincerely,

WILLIAM C. MOBLEY, M.D.,
President of the Medical Staff,
Mercy Hospital.●

SERGEY VEPRINSKY

● Mr. SIMON. Mr. President, I join my colleagues in participating in the Congressional Call to Conscience. While we have seen tremendous progress in the numbers that the Soviets have allowed to leave, undeniably there are still those who continue to suffer at the hands of the Soviet bureaucracy because of their faith. The Veprinsky family, originally from Kiev, now in my home State of Illinois, is a prime example of the Soviet's attitude and treatment of Soviet Jews. This family is needlessly broken apart, and I urge the Soviet authorities to reunite them.

Fourteen years ago, Sergey Veprinsky served in the Soviet Army as a private. During his time serving his country, Sergey guarded an automobile park and a medical warehouse. In August 1988, Sergey applied to emigrate along with his wife, Natalia, and son, Maksim, but his application was denied on the grounds that he had access to state military secrets. I fail to see what security secrets an Army private would have access to in an automobile park or a medical warehouse. In the unlikely event that Sergey actually was exposed to any sensitive material, I cannot believe it would be of any importance 14 years later.

Three times the Veprinskys applied to emigrate; three times they were refused. After months of hope and worry, permission was finally granted, but only for Natalia and Maksim. The Veprinskys faced the horrible decision of either remaining in the Soviet Union and fighting for permission to emigrate as a family, or taking the certain freedom offered Natalia and Maksim. Believing they owed it to their son to allow him to grow up in freedom, Natalia and Maksim came to the United States in June. Sergey remains in the Soviet Union, needlessly separated from his family.

Since it is widely known that Kiev is one of the Soviet Union's more antisemitic cities, it is clear to me that Sergey's so-called access to state military secrets is merely a ruse designed to intimidate. As President Gorbachev has publicly stated his commitment to free emigration, I urge him to take the necessary steps immediately to reunite Sergey with his family. I also urge him to implement the new immigration law so that more families will be spared the pain the Veprinskys are now experiencing.●

IRAQI INVASION

● Mr. HEINZ. Mr. President, we awoke this morning to find that Iraq once more had shown her complete disregard for decent and humane standards of international conduct. After tiny Kuwait refused to accede to Saddam Hussein's repeated demands for economic and even territorial concessions, Hussein decided to take matters into his own hands. Now Kuwait is under the thumb of Hussein's huge, 1-million-man army.

Mr. President, where does it end? When will Iraq begin to act like a civilized member of the international community, instead of an outlaw, a bully, and a constant threat to international peace?

Many of my distinguished colleagues have repeated the litany of Iraqi transgressions from our distinguished colleagues, including chemical warfare, the attempt to produce nuclear weapons, and now this latest act of brutal aggression. We have also considered the significant effects this war—and it is a war, Mr. President, however unfair the odds against the Kuwaitis—on the United States.

But our indignation is not enough, Mr. President. And while I agree with the prescient comments by my colleagues that this war points up the economic necessity to reduce our imports, again I would say that this is not enough. Only days ago, Mr. President—days—we voted to impose economic sanctions on Iraq. And to what effect?

Indeed, we might ask what effect any of our sanctioning, cajoling, pleading, warning, or threatening has ever had on Saddam Hussein. The answer, Mr. President, is that we have had no effect. When will we recognize that our noble approach—one that stresses negotiation, accommodation, and understanding—is an approach that is completely alien to a brutal and single-minded opponent like Saddam Hussein? Such an approach is based on law, mutual respect, and fair compromise—in other words, on the very principles of decency that Hussein has rejected time and again in his attempts to attain supremacy over his neighbors. In Iraq, Mr. President, force is apparently the coin of the realm, and it's time we took that reality seriously.

This means, Mr. President, that we must make Hussein understand that our demand that he withdraw from Kuwait, to use President Bush's words, "immediately and unconditionally," is not merely a recommendation or suggestion. Now, I know that today it's been popular to argue that our allies should be the ones to stop Hussein this time—after all, their interests are as threatened as ours. But that's an argument we should have for another day; let us not give Mr. Hussein the pleasure of watching the West fight among themselves while he runs roughshod over Kuwait.

No, Mr. President, the time has come for more decisive action. If Iraq persists in this despicable action, the United States should consider the use of military force. While this can and should ideally be a multilateral effort, with our allies, we should nevertheless be prepared to act on our own. I'm sure that the President and the Defense Department are well prepared for such an eventuality, and I will not presume to suggest more specific action.

Mr. President, I fully understand the gravity of this possibility. But we seem to have run out of options. We could not stop Iraq from using chemical weapons. We have been unsuccessful in our attempts to stop Iraq from intimidating its neighbors. We have been unable to stop the Iraqi development of a nuclear program. If Hussein is allowed to get away with this, Mr. President, where will it end? What shall we do one day when he has finally acquired the nuclear weapons he so fervently desires? Shall we simply accede once again, perhaps in the face of nuclear blackmail?

Many years ago, Mr. President, we tried to stop the expansion of a ruthless dictator through negotiation and accommodation. We assumed that rational discussion and flexible compromise would ensure peace. We were wrong; the leader was Hitler and the conference was Munich. We cannot

allow the same mistake again. We may be able to evade a confrontation with Iraq for now, Mr. President, but we can't hide forever. One way or another, Saddam Hussein must be stopped. If he does not respond to negotiation, then I think the time has come to consider other, more persuasive alternatives.●

THE N.D. SENIORS LEAGUE

● Mr. CONRAD. Mr. President, today I wish to acknowledge an organization in my State that has been working for the last 25 years to meet the social needs of North Dakota's senior citizens. The Senior Citizens League of Minot will be commemorating the 25th anniversary of its incorporation on August 27, 1990. The league was the first senior citizens club to be incorporated in North Dakota and it remains the largest in the State. Every week, each of the league's 1,100 members have the opportunity to share activities such as dancing, exercise, and meals, with other members.

Mr. President, too often the senior citizens of America do not receive the care and attention they deserve. Many of our elderly citizens who were once active contributors to the growth of our communities, have now become neglected and forgotten by the very society they helped to build. At times, America seems to be obsessed with a youth movement, and young ideas and young minds are often promoted to the detriment of those 65 years old and older. The Senior Citizens League of Minot has recognized that the senior years do not have to be the declining years, and that active minds and bodies are not exclusive to the young.

For their continuous efforts in caring for the physical and mental well-being of North Dakota's seniors, Mr. President, I wish to congratulate the Senior Citizens League of Minot on their 25th anniversary.●

CONFERENCE REPORT ON H.R. 1594

● Mr. HEINZ. Mr. President, while there is much in this bill that is meritorious, including a number of provisions of considerable interest to my constituents, there is one provision of the bill that represents such outstandingly bad policy that it offsets all the good the bill will do.

That provision is section 224, which would exempt CBI nations from the cumulation provisions of our subsidies and antidumping laws. For the uninitiated, the cumulation provisions of current law allow the International Trade Commission to cumulate or aggregate the imports from more than one country under investigation for dumping or subsidizing in determining whether or not the domestic industry has been injured. The purpose of the provision was to make sure that countries whose imports represented only a small part of the total did not, by virtue of that fact alone, escape an affirmative finding. It also had the more practical objective of dealing with the problem that small importers often become bigger ones when their foreign competitors' access to our market is restricted by a dumping or countervailing duty finding. The provision has been sparingly applied since its enactment, and in the 1988 trade bill it was slightly modified to give the Commission additional discretion with respect to its application.

Now in the pending bill we suddenly have a provision that would flatly exempt the CBI countries from the application of cumulation. This concept was not in the Senate version of the bill—indeed, it was not proposed either in committee or on the floor. No, Mr. President, this provision comes entirely from the other body, ironically from the very Members who heretofore had been strong advocates of market discipline within a framework of multilateral rules.

Unfortunately, adoption of this provision will frustrate both those objectives. By exempting CBI countries from cumulation, we effectively exempt them from the reach of our unfair trade law statutes, since in most cases these countries will be small producers with only limited market share—at least for the time being. Once exempt, they will be able to penetrate our market with impunity unless they reach some undefined level when their imports will be large enough to be considered on their own without the cumulation provision. As a result, we are encouraging these countries to ignore the discipline of the market and embark on a path of dumping and subsidization in order to gain access to the U.S. market.

Second, at the same time we are committing this crime against the market system, this identical issue is under discussion in the Uruguay Round. A number of our trading partners—primarily those that have profited tremendously from dumping—have launched a campaign to radically restrict our ability to catch them. While I will have more to say about that campaign and the American multinationals that support it on another occasion, I would point out here that an integral element of that campaign is the elimination of our cumulation provisions. In one respect, I suppose we should be flattered, as the campaign suggests we may finally have found some provisions of law that might work against the illegal and unethical practices of our trading partners.

Obviously, I hope that we do not foolishly negotiate these things away in Geneva, and many of us are working here in Congress to make sure that does not happen. It goes without saying that surrendering this provision on even the small scale in this bill can only damage our negotiating position in Geneva. We can expect nothing there but increased demands for the United States to abandon it.

What astonishes me, Mr. President, is how those responsible for this provision, who have been long-time defenders of the multilateral process and understand thoroughly the tactics of GATT negotiations, have been so ready and willing to prejudice the American position. You simply cannot find one of our negotiators who, off the record, will not say that adopting this provision is a supremely stupid thing to do from a tactical point of view, if nothing else. As a side note, it pains me to observe that our negotiators and the administration are so lacking in courage that they are willing to make these observations only off the record. As has been said in other situations, Mr. President, they know better than they do, and are all the more disappointing as a result.

Nevertheless, despite what can be most charitably called a tactical blunder of the first magnitude, we seem to be stuck with this provision in the bill. While I am disappointed in the Senate conferees for accepting it, I am most distressed at the other body for insisting on it and at the administration for acquiescing in it when they know it is a bad provision. I hope that at some future point we will be able to recover from this mistake.●

DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 1199, the VA nurses recruitment and retention bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislation clerk read as follows:

To amend title 38, United States Code, to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility in the pay system for those nurses and to authorize the Secretary of Veterans Affairs to provide certain procreative services for married veterans with service-connected disabilities which impair their ability to procreate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2511

(Purpose: To establish a system of competitive pay for nurses employed by the Department of Veterans Affairs and to make other improvements in veterans' health and education programs)

Mr. LEVIN. Mr. President, on behalf of Senator CRANSTON, I sent a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. CRANSTON (for himself and Mr. MURKOWSKI) proposes an amendment numbered 2511.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New Grades	*Current nurse grades*
1. Entry grade	Junior and associate grades.
2. Intermediate grade	Full and intermediate grades.
3. Senior grade	Senior and chief grades.
4. Director grade	Assistant director and director grades.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Entry grade.
"Intermediate grade.
"Senior grade.
"Director grade.".

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PERSONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"Subchapter IV—Pay for Nurses and Other Health-Care Personnel

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions of a part-time basis) are sufficient for the facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rate of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of the facility shall conduct a survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making in-

dustry-wage surveys except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rate of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for the grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survery under paragraph (3)(B) or at any other time that a adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under subsection is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces that rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

"(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subection (d)(1)(A) effective during the 12 months proceeding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

"(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provide in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparision to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4142. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed $2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the adminstration of this section) that the director of a Departrment health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position of employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain the document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include docmentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department heath-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title.".

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.

"4142. Nurses and other health-care personnel: administration of pay.

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out "not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section: "§ 620C. Noninstitutional alternatives to nursing home care: pilot program

"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term 'case management services' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care:

(b) REPORT.—No later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees of Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "Health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period "and to funds that have been alloted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of

this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.".

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990,".

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: Individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under section 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.

"4351. Authority for program.

"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.

"4353. Amount of assistance.

"4354. Obligated service.

"4355. Breach of agreement; liability."

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount." and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount.";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter.".

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

§ 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs."

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an individual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise to urge our colleagues to give their unanimous approval to the pending measure, H.R. 1199, the proposed Department of Veterans Affairs, Nurse Pay Act of 1990, as amended by a compromise agreement that our committee has developed with our counterpart committee in the House. This measure—which I will refer to as the compromise agreement—embodies provisions derived from S. 13 as reported by our committee on September 13, 1989, and passed by the Senate as a substitute for the text of H.R. 901 on October 3, 1989, and from a variety of House-passed bills: H.R. 1199 as passed by the House on June 27, 1989; H.R. 2569 as passed by the House on June 27, 1989; H.R. 901 as passed by the House on July 11, 1989; H.R. 1358 as passed by the House on October 2, 1989; H.R. 3199 as passed by the House on October 30, 1989; and H.R. 4089 as passed by the House on July 10, 1990.

As the author of the provisions in S. 13—in section 251—to establish a VA nurse-pay system based on locally competitive rates of pay, I am very pleased that we are now close to the enactment of legislation incorporating basic principles of that legislation.

Mr. President, the compromise agreement represents a resolution of certain differences between House- and Senate-passed legislation from last year, primarily those dealing with the revision of VA nurse pay. As I noted at the time the Senate considered these bills last year (CONGRESSIONAL RECORD, November 20, 1989, 30617), we had then reached an impasse over Senate-passed provisions which addressed the issue of compensating veterans in connection with their exposure to agent orange in Vietnam. Because of this impasse, negotiations on other issues—particularly those relating to VA health-care matters—did not go forward at that time. Thus, our two committees were not able to resolve all of the matters between us, and only 70 provisions were included in the compromise agreement as it was enacted as Public Law 101-237.

The two committees continued to pursue resolution of the provisions which were not included in that law, and the measure that is before the Senate today is a further compromise agreement developed from those bills.

Mr. President, because each of the provisions of the compromise agreement is described authoritatively in the explanatory statement developed by the two Committees on Veterans' Affairs, which I will insert in the RECORD as part of my remarks today and which the chairman of the House Committee, Mr. MONTGOMERY, will insert in the RECORD during House debate on this measure, I will provide only a summary of those provisions at this point and then discuss certain key elements of the measure.

SUMMARY OF PROVISIONS

Mr. President, this House-Senate compromise agreement consists of two titles: "Title I—Health-Care Personnel Pay Reform" and "Title II—Miscellaneous Education and Health Provisions," as follows:

TITLE I—HEALTH-CARE PERSONNEL PAY REFORM

Title I of the compromise agreement contains amendments to title 38, United States Code, that would help VA overcome its difficulties in the recruitment and retention of VA nurses and, potentially other selected categories of health-care personnel, through the establishment of a system of locally competitive rates of pay. Specifically, these provisions would:

First, replace the current system of eight grades for registered nurses with a VA-wide matrix consisting of four grades, with the number of steps per grade to be determined by the Secretary, upon the recommendation of VA's Chief Medical Director.

Second, require that the maximum rate of pay in each grade be not more than 133 percent of the minimum rate paid in that grade, except that, if the Secretary determines that that would be insufficient for recruitment and retention purposes, the Secretary could increase the cap to up to 175 percent of the minimum rate paid in that grade and must then include in the next required annual report the justification for doing so.

Third, mandate that, at each VA health-care facility, the pay rate for the first step in each grade be determined by the Facility Director using either information from the Bureau of Labor Statistics [BLS], if available, for the labor-market area in which the facility is located, or, if the BLS data were not available, the Director's own survey of local facilities, conducted in

accordance with regulations that the Secretary would prescribe.

Fourth, permit a local Director, in comparing VA and non-VA pay, to take into account both pay and employee benefits, including nonmonetary benefits to the extent they are quantifiable.

Fifth, prohibit VA from making changes in pay rates that would result in VA being the remuneration leader in any local area.

Sixth, require a VA Facility Director to consider survey results at the following times: When Federal employees are scheduled to receive a cost-of-living adjustment [COLA]; when BLS releases a new industry-wage survey for the relevant labor market area; and at any other time the Director determines it is necessary to do so.

Seventh, prevent any incumbent's pay from being decreased because of survey results as long as the incumbent stays in the same position at the same facility.

Eighth, require that a nurse remain in same grade and step when transferring to another VA facility—unless simultaneously being promoted or demoted—but be paid at the rate applicable to that grade and step at the new facility.

Ninth, require that a head nurse receive additional pay in the dollar amount of a two-step increase while holding that position.

Tenth, mandate that, upon promotion, a nurse not be paid less than the nurse was paid on the day before the promotion.

Eleventh, provide that the nurse-pay provisions take effect upon enactment, except that changes in pay would take effect with respect to the first pay period after April 1, 1991.

Twelfth, provide that survey information not be subject to the Freedom of Information Act.

Thirteenth, authorize the Secretary to apply the new competitive pay provisions to other title 38 employees, except physicians, dentists, and nurse employees and to the so-called title 5/title 38 hybrid employees.

Fourteenth, require the Secretary to submit two reports relating to the pay authority to the Committees on Veterans' Affairs for each of the next 3 years: First, a general annual report due in December of 1991, 1992, and 1993; and second, a report due in February of 1992, 1993, and 1994, focused on whether and to what extent local Directors granted COLA's coincident with COLA's for Federal civil service employees.

Fifteenth, mandate that RN's receive cash bonuses—up to $2,000—upon certification in a specialty in which the nurse is assigned and authorize such bonuses for exemplary job performance or job-related achievement.

Sixteenth, repeal the current limitation on the hourly rate of overtime pay, under which no nurse's overtime rate can exceed 1.5 times the minimum hourly rate of the current "Intermediate" grade and provide that any nurse's overtime rate would be 1.5 times his or her rate of basic pay.

TITLE II—MISCELLANEOUS PROVISIONS

Title II of the compromise agreement contains, in freestanding provisions and amendments to title 38, eight provisions that would:

First, authorize a 4-year pilot program to evaluate noninstitutional alternatives to nursing home care for veterans who need that care primarily for the treatment of a service-connected disability, or have service-connected disabilities rated at 50 percent or more.

Second, revise VA's authority to enter into agreements for sharing scarce medical resources so as to: expand the categories of facilities with which VA may enter into sharing agreements; replace the reqirement in current law that reimbursement rates cover full costs with flexibility in determining reimbursement rates; and provide that payments for the use of VA resources be returned to the VA facility involved.

Third, authorize: extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, pharmacy, or practical or vocational nursing, and extending for a period not exceeding 2 years the temporary full-time appointment of individuals who have completed a course of training in one of the subjects listed above, while such individuals are pending registration or licensure in a State or certification by a national board.

Fourth, extend for 1 year the reporting requirements of the Special Committee on Post-Traumatic Stress Disorder.

Fifth, establish a new program to provide post secondary educational assistance to students in health professions who are eligible for educational assistance under the Montgomery GI Bill Program for Reservists—chapter 106 of title 10—in return for the students' agreement to subsequent service with the Department of Veterans Affairs.

Sixth, modify the computer-matching provisions applicable to certain VA educational assistance programs.

Seventh, make 1977 and 1978 service-academy graduates and 1978 ROTC graduates retroactively eligible for Vietnam-era GI bill benefits.

Eighth, authorize the Secretary to establish a procedure to approve second and subsequent changes of program of education for a veteran or other eligible person receiving VA-administered educational assistance.

Ninth, rename the Saginaw VAMC in honor of Aleda E. Lutz, a distinguished World War II flying nurse.

HEALTH-CARE PERSONNEL PAY REFORM

Legislative background. For some time, Mr. President, there has been no disagreement that something needed to be done about pay for VA nurses. I introduced S. 947, the proposed Veterans Health-Care Personnel Act of 1989, on May 9, 1989. Many of the provisions of the measure regarding competitive pay for registered nurses were incorporated in S. 13, the Veterans Benefits and Health Care Act of 1989, as reported by the Committee on Veterans' Affairs on September 13, 1989.

Unfortunately, as I noted earlier, we were unable to gain enactment of these provisions last year. Thus, these provisions were again included in S. 2100, the Veterans Benefits and Health Care Amendments of 1990, as reported by our committee on July 19, 1990. The House addressed VA nurse-pay reform in H.R. 1199 as passed by the House on June 27, 1989. The House passed these same provisions this year in H.R. 4557. In addition, the administration offered its nurse-pay proposal, which I introduced by request as S. 2458 on April 19, 1990.

Basic concepts. Mr. President, under the provisions in the compromise agreement, pay rates for registered nurses [RN's] at each VA medical center would be set in relationship to pay and other employment benefits being offered to RN's by other health-care facilities in the same local labor market area.

The compromise agreement would create a matrix of grades and steps, the familiar building blocks of Federal pay structure. It would require the Secretary to establish four nurse grades and to determine, after receiving the recommendations of the Chief Medical Director [CMD], the number of steps within each grade.

The coordinates in the nursing matrix would represent the same levels of function, experience, and education throughout the VA health-care system. Rates of pay for those coordinates, however, would vary based on local market area compensation.

Information on entry-level pay for positions comparable to the four defined nurse grades—entry, intermediate, senior, and Director—would be gathered from one of two sources. If available, each local VA facility Director would be required to use current data from a Bureau of Labor Statistics [BLS] industry wage survey for the relevant labor market area. In those cases where there are no current BLS data, the Director would be required to conduct a survey of the health-care facilities with which VA competes for nursing personnel, and, in so doing,

follow regulatory guidelines which would prescribe adhering to a methodology comparable to that used by the BLS, except to the extent determined to be infeasible by the Secretary.

Mr. President, in addition to requiring this approach for RN's, the compromise agreement would, as would the Senate-passed legislation which I authored, authorize VA, as necessary for recruitment and retention purposes, to apply these competitive pay provisions to certain other categories of health-care personnel. These categories are those which are employed under title 38, except for physicians, dentists, and nurses—podiatrists, optometrists, physician assistants, expanded-function dental auxiliaries—and employees in the so-called title 38/title 5 hybrid category—certain clinical or counseling psychologists who are diplomates in psychology, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists. The compromise agreement would allow the Secretary, after receiving the recommendations of the CMD, to establish grades and steps as necessary for such other categories of health/care personnel eligible under this agreement.

Rationale for nurse pay reforms. Running the largest health-care system in the United States, with a nurse personnel level of over 35,000, including 31,080 full-time, as of March 31, 1990, VA experiences to a magnified extent the difficulty faced throughout the Nation—in public, private not-for-profit, and proprietary facilities—in nurse recruitment and retention. Staffing shortages in any health-care occupation can contribute to numerous ill effects, including low staff morale as those employed must take up the slack caused by vacancies and potential care errors of omission or commission. Entire wards have been closed at VA facilities because sufficient numbers of nurses were not available to staff them adequately. As a result, fewer veterans get served in a timely manner.

Mr. President, various task forces, academic inquiries, and popular press treatments have attempted to explain why, throughout the Nation, health-care facilities are having such problems recruiting and retaining nurses in sufficient number to meet their demands. A variety of causes seems responsible, in varying degrees, for what is perceived by all as a nursing shortage. They include, first, the increasing use of complicated technology in health care, which requires trained and educated personnel; second, the increasing administrative and other burdens of the job as other occupational positions, such as clerks, patient escorts, maintenance workers, are cut back due to tight hospital budgets; third, decreasing numbers of applicants to nursing schools from women, the group traditionally steered into nursing, as other professional options have opened for them; fourth, continuing tension among health personnel groups about responsibilities and professional independence, which can create strains in the work environment; and fifth, salaries that are not sufficient to attract the number and quality of nurses desired.

Salary needs. The compromise agreement addresses, primarily, the last-mentioned of those reasons—inadequate salary. In the VA Report on the 1988 Survey of Health Occupational Staff—the latest year available—data are presented from facility respondents who answered survey questions about recruitment and retention issues. The results indicated that almost 20 percent of RN losses in fiscal year 1988 were attributed by respondents to either higher salaries or better fringe benefits for comparable work. This is more than twice the next most frequently given reason for RN losses. Two-thirds of the respondents reported that RN's at non-Federal medical facilities received higher salaries for similar assignments than would RN's employed by VA.

On September 30, 1988, three-quarters of all VA facilities had special salary rates, under section 4107(g) of title 38, in effect for RN's. The special salary mechanism which had been designed to accommodate the exception is now the rule. Special rates are not an efficient way to manage a large personnel system since a great deal of paperwork and hierarchical decisionmaking is necessary to run it.

Extent of the nurse recruitment and retention problem for VA. Mr. President, as I noted in my floor amendment on May 24, 1990, introducing the proposed Department of Veterans Affairs Physicians' and Dentists' Compensation Act of 1990 (CONGRESSIONAL RECORD, 12423, statistics on vacancy rates can be quite tricky as a general matter. In addition, the committee has specifically been warned not to put too much stock in VA's reporting of RN vacancy rates.

We have also been told that, in the case of dentists and psychiatrists, for example, long-vacant positions are often abolished and thus no longer appear as unfilled in reports. Turnover rates, we are told, are more indicative of the nature of the problem. For RN's in fiscal year 1986 through 1988, turnover rates increased from 16.1 percent to 26.6 percent.

The VA report on its 1988 Survey of Health Occupational Staff presented length-of-vacancy data for RN's. Less than 43 percent of the positions were filled in 6 months or less and only 7 percent of the respondents considered that the operations of their facilities were not adversely affected by the vacancies.

Authority to use competitive pay provisions for health-care personnel: Mr. President, as I have noted, the compromise agreement requires facility directors to use survey data—either from BLS or facility-specific—as a guide in determining basic salary rates for RN's and allows the CMD to consider certain other health-care personnel as covered under the competitive pay system. The eligible occupations are those listed in clauses (1) and (3) of section 4104 of title 38: Certain title 38 personnel—podiatrists, optometrists, physician assistants, and expanded-function dental auxiliaries—and the hybrid positions, so-called because a combination of title 38 and title 5 policies apply to their employment—certain clinical or counseling psychologists who are diplomats in psychology, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

This approach, of authorizing rather than mandating the use of the competitive-pay process for these occupations, its based on data available to the committee, which are not as definitive regarding the severity of the recruitment and retention problems of these other personnel groups as they are for RN's. Although VA makes extensive use of its special-pay authority for some of these occupations, pharmacy and physical therapy, for example, it appears that the existing special pay mechanisms provided in law—which would continue after enactment of this legislation—are functioning as they were designed to.

However, it is my intention to continue reviewing available data and recommending the development of additional, valid data in order to assess the need for more aggressive legislative action regarding these other employee groups. I believe we should give VA an opportunity to develop some experience with this new salary-setting mechanism before we try to expand it to thousands of additional health-care personnel. I point out, however, that this compromise agreement does grant VA the authority, if recommended by the CMD, to extend these provisions to any of the categories of health-care personnel I listed earlier.

Cost: Mr. President, regarding the nurse pay reform provisions of this compromise agreement, the Congressional Budget Office [CBO], in an informal cost memorandum states, "It is not possible to estimate the cost of this provision with currently available data." The reasons were more completely stated in CBO's September 12, 1989, memorandum on similar provisions in S. 13:

The cost of this provision cannot be estimated effectively before the first set of wage surveys is conducted, because there is no data base available that is adequate to compare salaries of VA and non-VA nurses on a locality-by-locality basis. The cost of this provision, however, is not expected to be large, because VA already pays special salary rates to nurses in 138 facilities to enable them to compete in their local hiring markets.

VA provided its own estimate of the cost of the administration-proposed nurse-pay legislation, which I introduced by request as S. 2458 on April 18, 1990. For a locality-based competitive-pay structure somewhat similar but not as extensive as the one in the compromise agreement, VA estimated a first year cost of $31,172,700.

In the proposed budget for fiscal year 1991 submitted to the President in January 1990, the administration included $31.4 million for nurse-pay reform. That same figure was used by both the Senate and the House Committees on Veterans' Affairs in our respective fiscal year 1991 budget recommendations to our respective Budget Committees.

NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE

Mr. President, section 201 of the compromise agreement would require VA to conduct a 4-year pilot program to evaluate noninstitutional alternatives to nursing home care.

Section 201 is identical to section 213 of S. 13, the proposed Veterans Benefits and Health Care Act of 1989; as passed by the Senate on September 30, 1986, in H.R. 5299; and S. 876 as passed by the Senate on July 30, 1985, in H.R. 505.

Mr. President, I am pleased to report that the House and Senate have finally reached agreement on this provision. In light of the rapid increase in the number of veterans, age 65 and older, who may be seeking care from VA in the years ahead, VA must take steps to develop new approaches to addressing the health-care needs of older veteran patients. These approaches must include an emphasis on increased interaction with community entities that provide health and health-related services if VA is to get the maximum health care benefit out of every dollar spent. There also must be a greater emphasis on reducing the need for institutional care for veterans.

Under the compromise agreement, VA would be authorized to conduct a 4-year pilot program through which VA would provide certain veterans with medical, rehabilitative, and other health services and, by contract with non-VA entities, with health-related services.

These health and health-related services would be provided under VA contracts in noninstitutional settings—such as the veteran's home or a personal-care or board-and-care home—with the goal of being able to avoid institutional care, such as in a hospital, nursing home, or domiciliary facility, for the participants in the program.

Eligibility for the program would be limited to veterans who are eligible for and otherwise in need of nursing home care primarily for the treatment of a service-connected disability or veterans who have service-connected disabilities rated at 50 percent or more who are being treated for any disability.

The compromise agreement would limit the cost to not more than 65 percent of the total cost that would otherwise have been incurred by VA had the veterans involved been furnished nursing home care instead. It is the committees' intent that the pilot program be carried out through the use of funds that would otherwise be used for the provision of more costly intermediate care and that the funds saved by this pilot program be applied to care for more veterans than would otherwise be served.

Finally, the compromise agreement would require that the Secretary submit, by February 1, 1994, a report on the conduct of the pilot program during its first 3 fiscal years including an evaluation, findings, and conclusions about the program.

Cost: According to CBO, the enactment of section 201 would entail estimated costs of $5 million in budget authority and $4 million in outlays in fiscal year 1991.

SHARING OF SCARCE MEDICAL RESOURCES

Mr. President, section 302 of the compromise agreement would revise VA's authority to enter into agreements for sharing scarce medical resources so as to: First, expand the categories of facilities with which VA may enter into sharing agreements; second, replace the requirement in current law that reimbursement rates cover the full costs with a requirement that would provide greater flexibility in determining reimbursement rates; and third, provide that payments for the use of VA resources be returned to the VA facility involved.

Section 202 is identical to section 223 of S. 13 as passed by the Senate on October 4, 1989, in H.R. 901, which was in turn identical to section 613 of S. 2011 as passed by the Senate on October 8, 1988 in H.R. 4741.

Cost: According to CBO, the enactment of section 202 would entail no significant costs in fiscal year 1991.

TEMPORARY APPOINTMENTS

Mr. President, section 203 of the compromise agreement, which is identical to section 263 of S. 13 as passed by the Senate on October 4, 1989, in H.R. 901, would authorize: First, extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, pharmacy, or practical or vocational nursing, and second, extending, for a period not exceeding 2 years, the temporary full-time appointment of individuals who have completed a course of training in one of the subjects listed above, while such individuals are pending registration or licensure in a State or certification by a national board.

Currently, certain health-care professionals without certification or licensure can obtain only a 1-year VA appointment within VHS&RA. According to VA, nearly all of such appointees receive permanent appointments under section 4103(3) once certification of licensure is obtained. However, Office of Personnel Management regulations do not permit employees with temporary appointments of a year or less to receive health benefits and life insurance. The authority proposed in the compromise agreement would increase VA's ability to recruit and retain scarce health care personnel by permitting VA to appoint these professionals for longer than 1 year—up to 2 years—and thus be able to offer them health and life insurance benefits.

With regard to student appointments, current law limits such temporary appointments to 1 year. Therefore, many students are required to terminate employment before completing their academic training. Because they have not yet obtained a degree, they then are ineligible for appointment as probationary permanent employees. Mr. President, I believe that allowing VA to retain throughout their training periods students who maintain good academic standing will better enable the Department to keep these individuals within the VA system. The provision in the compromise agreement would promote that result.

Cost: According to CBO, the enactment of section 203 would entail no significant costs in fiscal year 1991.

SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER

Mr. President, section 204 of the compromise agreement would extend for 1 year the reporting requirement of the Department's special committee on PTSD. The special committee would be required to submit concurrently to the Department and the Committees on Veterans' Affairs a report by February 1, 1991.

Since the special committee was established pursuant to legislation I authored in 1984, it has done excellent work in identifying strengths and weaknesses in VA's overall efforts to address the tremendous problem of PTSD among veterans. I think it is most important that the special committee continue its active monitoring of VA's PTSD programs as we continue to try to develop comprehensive legislation in this very important area.

By extending the reporting requirement for 1 year, section 204 would ensure that Congress and the Department continue to be fully informed about the effectiveness and adequacy of existing VA programs. The special committee has demonstrated effectiveness, initiative, and insight in the areas of PTSD treatment, research, and program operations, and I urge my colleagues' strong support of its 1-year extension.

Cost: According to CBO, the enactment of section 204 would entail no significant costs in fiscal year 1991.

EDUCATIONAL ASSISTANCE TO HEALTH PROFESSIONS STUDENTS UNDER THE RESERVE GI BILL

Mr. President, section 205 of the compromise agreement would amend chapter 76 of title 38 to add a new subchapter V so as to establish a new program to provide post-secondary educational assistance to students in health professions who are eligible for education assistance under the Montgomery GI bill program for reservists—chapter 106 of title 10—in return for agreement for subsequent service with the Department of Veterans Affairs.

Section 205 is derived from section 2 of H.R. 3199, the proposed Veterans Health Professionals Educational Amendments of 1989, as passed by the House on October 30, 1989, and section 242 of S. 2100, as reported by the Committee on Veterans' Affairs on July 19, 1990, which was derived from S. 2542. The compromise agreement would: First, authorize the Secretary to identify staffing shortages in health professions within the VA and establish a discretionary post-secondary educational assistance program for Montgomery GI bill-Select Reserve participants—chapter 106 of title 10, United States Code—who major in such health care professions and agree to work for VA for 1 year for each year of assistance received; second, provide that to be eligible for this program the individual must be entitled to benefits under chapter 106 and score above the 50th percentile on the Armed Forces qualification test; third, authorize VA to pay to program participants a $400 per month stipend during the time the student is taking his or her health-related courses; fourth, require a participant who does not fulfill his or her obligation to VA to repay the benefit amount, plus interest and penalty, which would be required to be made directly to VA beginning on the date of the breach of contract; fifth, provide that, if an individual cannot complete obligated service as a result of performing active duty, the individual would be permitted to complete obligated service after completion of active duty; and sixth, authorize the Secretary to prescribe regulations under which the Secretary could waive the obligated service requirement in cases in which the Secretary determines that either the individual cannot perform the service for reasons beyond the individual's control or such a waiver would be in the best interest of the Government.

Cost: According to CBO, enactment of section 205 would entail estimated costs of $8 million in both budget authority and outlays in fiscal year 1991.

ADMINISTRATION OF EDUCATIONAL ASSISTANCE PROGRAMS

Mr. President, section 206 of the compromise agreement would amend the procedures relating to computer matching in certain educational assistance programs under titles 10 and 38 of the United States Code.

VA periodically reviews, through computer matches of Defense Department military personnel data with VA beneficiary data, the continuing eligibility of participants in the Montgomery GI bill—including both the Selected Reserve and Active Duty components under chapter 106 of title 10, United States Code, and chapter 30 of title 38, respectively—and in the Post-Vietnam Era Educational Assistance Program under chapter 32 of title 38, who are using education benefits while serving in the Reserves or on active duty. Where the DOD data reflect changes rendering an individual ineligible, such as receipt of a disqualifying discharge or termination of Reserve status, the benefits are terminated.

The Computer Matching and Privacy Protection Act [CMPPA], Public Law 100-503, generally provides that, before Federal benefits may be terminated on basis of an interagency computer match, information gained from the match must be independently verified and 30 days must expire after the individual is given notice of the agency's findings and the individual's right to contest them. Because of certain problems with the implementation of CMPPA, Congress in Public Law 101-56 postponed the original CMPPA effective date of July 18, 1989, to January 1, 1990. Based on information VA provided to the Veterans' Affairs Committee last fall that implementation would require substantial staff time and paper transactions to back up the computer-matching operation, a 6-month postponement to July 1, 1990, of the applicability of the CMPPA to the administration of these educational assistance programs was enacted in section 413(b) of the Veterans' Benefits Amendments of 1989, Public Law 101-237.

Section 206 of the compromise agreement, which is derived from section 4 of H.R. 4089 as passed by the House on July 11, 1990, would provide that VA, in lieu of complying with CMPPA requirements, may take action based on information produced by a computer-data matching program with DOD, if 10 days—excluding Saturdays, Sundays, and Federal holidays—have expired after VA has provided the individual with a written notice of findings and of the opportunity to contest them. The compromise agreement would also postpone until October 1, 1990, the applicability of pertinent CMPPA provisions to VA's administration of these programs—and hence the necessity to comply with the alternative requirements specified in the compromise agreement—and would ratify VA's use of DOD computerized data in administering these programs during the period beginning July 1 through the date of enactment.

Cost: According to CBO, enactment of section 206 would entail no significant cost in fiscal year 1991.

VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY AND SENIOR RESERVE OFFICER TRAINING CORPS GRADUATES

Mr. President, section 207 would extend eligibility for Vietnam-era GI bill, chapter 34, equivalent benefits to members of the 1977 and 1978 graduating classes of the service academies and to 1978 Senior Reserve Officer Training Corps [SROTC] graduates.

Public Law 94-502, enacted on October 15, 1976, establishes the Post-Vietnam Era Veterans Educational Assistance Program [VEAP] in chapter 32 of title 38. Under that legislation, individuals entering on active duty after December 31, 1976, generally were eligible to participate in VEAP and were ineligible for chapter 34 benefits. Public Law 94-502 retained chapter 34 eligibility for those who entered active duty after December 31, 1976, but had previously contracted with the Armed Forces to enter on active duty and were enlisted in or assigned to a reserve component before January 1, 1977, and entered on active duty within 12 months after that date. However, 1977 and 1978 service academy graduates and 1978 SROTC graduates—all of whom had, at the outset of their third year of undergraduate study, entered upon their commitments to active-duty service at a time when chapter 34 eligibility was available to them—did not meet the above criteria for chapter 34 eligibility. S. 2011, as approved by the Senate in 1988, included a provision I authored that was designed to extend chapter 34 eligibility to 1977 and 1978 service academy and 1978 SROTC graduates who had demonstrated—as evidence by their participation in VEAP—an interest in earning education benefits during their service. This Senate-passed provision, however, failed to gain acceptance by the House.

On October 2, 1989, the House passed in section 4 of H.R. 1358 a similar measure but without the VEAP restriction contained in the 1988 Senate-passed provision. It was not accepted by the Senate for enactment last year.

In the interest of enacting legislation on this matter, the Committee has agreed to adopt a House provision derived from H.R. 1358. Thus, section

307 of the Committee bill would: First, extent eligibility for chapter 34-equivalent benefits to all 1977 and 1978 service academy graduates and 1978 SROTC members; second, require refunds to the individuals who participated in VEAP of their unused contributions to the VEAP account; and third, require payment, to those who received educational assistance under VEAP, of an amount equal to the amount by which chapter 34 benefits for the program pursued would have exceeded the assistance actually received under chapter 32 for that program.

Cost: According to CBO, the enactment of section 207 would entail no significant costs in fiscal year 1991.

LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION

Mr. President, currently, under section 1791 of title 38, a veteran or other eligible person pursuing education with VA-administered assistance is permitted to make one change of program of education without having to seek VA approval. One additional change of program generally may be approved if it is determined that the proposed program of education is suitable in terms of the individual's aptitudes, interests, and abilities. In the case of an individual who interrupted or failed to make progress in the pursuit of a prior program, a change can be approved only if it is determined there exists a reasonable likelihood that there will not be a recurrence of the interruption or failure to progress. Third and subsequent changes of program may not be approved unless the Secretary finds that the change is necessitated by circumstances beyond the individual's control.

Section 319 of S. 13/H.R. 901 would have amended section 1791 of title 38 so as to: First, repeal the general prohibition against more than two changes of educational program, and second, in the case of second and subsequent changes of program, permit approval only if: First, the individual accepted educational or vocational counseling services referred to in section 1663 of title 38, and second, the Secretary determined, on the basis of the results of the educational or vocational counseling, that the change was suited to the individual's aptitudes, interests, and abilities.

Section 208 of the compromise agreement, which is derived from section 319 of S. 13/H.R. 901, would provide the Secretary of Veterans Affairs with discretionary authority, effective June 1, 1991, to establish a procedure to approve second and subsequent changes of program after the first change if the program which the individual proposes to pursue is suitable in terms of the individual's aptitudes, interests, and abilities. Where the individual had interrupted his or her program or failed to make progress, the determination of a likelihood of no recurrence would continue to be required.

This compromise agreement would provide needed flexibility in the administration of VA education programs, while preserving the necessary safeguards to ensure the integrity of those VA education programs and prevent their abuse.

In designating a procedure for approval of additional changes in programs, the Secretary would have a wide range of options, including: First, requiring counseling or making it voluntary; second, whether counseling is mandatory or voluntary, providing it through the authority in section 1663 of title 38 for contract counseling, possibly through the schools; and third, requiring counseling in specific situations and making it voluntary in others.

On page 86 of the August 29, 1988, report prepared by the Commission to Assess Veterans' Education Policy (S. Prt. 100-125), the Commission recommended abolishing the current limit on the number of changes of program contained in title 38, declaring that it found "no purpose in limiting the number of changes a student may make."

The Commission further pointed out that current law seems to impose an unnecessary requirement on VA to make judgment calls relating to veteran-students' use of their benefits.

In response to the Commission's position to abolish the limit on the number of changes of program an otherwise eligible veteran may take, VA noted its opposition on page 23 of its interim report in response to the Commission's report. VA urged that some means of administering the law more simply and equitably be derived through changes in procedure or regulation, thereby obviating the need for eliminating the limits on changes of program altogether.

Mr. President, I believe that, by providing the Secretary of Veterans Affairs with discretionary authority to establish a procedure to approve changes of program of education after a first change, the compromise agreement meets VA's objection and at the same time is responsive to the essence of the VEP Commission's recommendation.

Mr. President, I note that both the Commission and VA agreed on the importance of counseling for veterans who are considering changes of program. On page 86 of their report, the Commission recommended instituting a counseling requirement for changes of program beyond an initial change. The VA agreed, on page 23 of its interim report, noting that such a requirement would greatly assist veteran-students in the most effective use of their benefits, provide them with the opportunity to review educational objectives, interests, and abilities over time, and would likely serve to limit substantially the number of changes of program. The committees believe, however, that more flexibility would appropriately be afforded the changing requirements of future program administration if counseling, even mandatory counseling, were established as part of a Secretary's procedure to approve changes of program, rather than as part of a required legislative procedure, and that the Secretary should be given a wide range of options.

Cost: According to CBO, the enactment of section 208 would entail no significant costs in fiscal year 1991.

CONCLUSION

Mr. President, in closing I want to express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, as well as the ranking minority member of the Senate committee, Mr. MURKOWSKI, for their cooperation and many courtesies on this measure.

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the Senate committee in the development of this legislation and I thank them all for their contributions to it.

I want also to note the contributions of, and express my deep gratitude to, the committee staff members who have worked on this legislation—on the minority staff, Lisa Moore, Chris Yoder, Todd Mullins, Vic Reston, and Al Ptak; Roy Smith, who so ably provides editorial support to the committee; and, on the majority staff, Susan Thaul, Chuck Lee, Thomas Tighe, Janet Coffman, Mike Cuddy, Brett Hansard, Charlotte Hughes, Sharon Sherwood, Bill Brew, Ed Scott, and Jon Steinberg, as well as Jodi Epstein, who recently left the committee staff to attend law school.

I also wish to note the as-always fine work and cooperation of the staff of the House Committee on Veterans' Affairs—Vic Raymond, Jill Cochran, Greg Matton, Tina Alvarado, Carl Commenator, Kingston Smith, Pat Ryan, and Mack Fleming—in working with us to reach the final agreement on this measure.

Finally, we are deeply indebted to Bob Cover and Joe Womack of the House Legislative Counsel's Office and to Hugh Evans and Greg Scott of the Senate Legislative Counsel's Office for their excellent assistance.

Mr. President, I urge the Senate to give its unanimous approval to the pending compromise agreement.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the explanatory statement prepared by the committees with regard to the provisions of the

compromise agreement, which I mentioned earlier and which is in lieu of a statement of the managers which would accompany a formal conference report.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON H.R. 1199 AS AMENDED, ON THE DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990

This document contains explanations of certain provisions of the measures (listed below) which have been passed by the Senate and House of Representatives and on which the Senate and House Committees on Veterans' Affairs have reached agreement. These agreed-upon provisions will be offered as a proposed Senate substitute amendment to H.R. 1199.

Certain provisions in the measures listed below involve various issues which remain outstanding and which the Committees plan to resolve later in this Session of this Congress; these provisions are not described in this document.

Differences between the provisions contained in the compromise agreement and the related provisions as passed by the Senate and House of Representatives are noted in this document except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follows:

H.R. 1199, a bill to revise the system of pay for nurses serving in Department of Veterans Affairs health-care facilities as passed by the House of Representatives on June 27, 1989.

H.R. 2569, a bill to name the Saginaw, Michigan, VA Medical Center after Aleda E. Lutz, as passed by the House on June 27, 1989.

H.R. 901, the proposed "Veterans Health-Care Programs Amendments of 1989", as passed by the House of Representatives on July 11, 1989.

H.R. 1358, a bill to amend Department of Veterans Affairs educational assistance programs, as passed by the House on October 2, 1989.

H.R. 3199, the proposed "Veterans Health Professionals Educational Amendments of 1989", as passed by the House on October 30, 1989.

H.R. 4089, the proposed "Veterans Educational and Vocational Counseling Amendments of 1990", as passed by the House on July 10, 1990.

S. 13, the proposed "Veterans Benefits and Health Care Act of 1989", the text of which was passed by the Senate as a substitute for the text of H.R. 901 on October 4, 1989.

The foregoing House-passed bills are referred to by bill number and the text of S. 13 as passed in H.R. 901 is referred to as the "Senate bill".

TITLE I—NURSE PAY

Current law: Salaries for Department of Veterans Affairs' nurses are determined pursuant to section 4107 of title 38, United States Code. Section 4107(b) mandates 8 grades for registered nurses (RNs)—Junior, Associate, Full, Intermediate, Senior, Chief, Assistant Director, and Director. The rates of pay for these grades, which are applied uniformly on a nationwide basis, are generally comparable to those established for grades GS-6 through GS-15 of the General Schedule. Specific qualifications for entry into the 8 nurse grades are described in Veterans Health Services and Research Administration Supplement MPH-5, Part II, Chapter 2. Section 4107(g), enacted in 1980 in Public Law 96-330, authorizes VA to provide increased rates of pay (known as "special-pay" rates) for RNs, among others. Under this authority, VA may increase pay for title 38 employees in order to provide for an amount of pay "competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market." However, current law does not mandate implementation of such pay throughout the VA system, nor does it provide specific mechanisms to ensure that the administration of nurse pay will be carried out in accordance with uniform standards. In addition, the special pay authority in section 4107(g), which was originally viewed as an extraordinary authority to be used in limited situations, has become the norm in recent years as VA has faced significant difficulties in recruiting and retaining RNs. As of June 30, 1990, special rates for RNs were in effect in 142 VA medical centers and for registered nurse aneestethists (RNAs) and certified registered nurse anesthetists (CRNAs) in 60 VAMCs. Despite the use of special rates, as of December 1989, the vacancy rate for full-time RNs was 14.4 percent.

Other non-physician and non-dentist health-care personnel listed in clauses (1) and (3) of section 4104 of title 38 may also receive special pay under the authority set forth in section 4107(g). These occupations are podiatrists, optometrists, physician assistants, expanded-function dental auxiliaries, clinical or counseling psychologists, certified respiratory therapists, registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists. Vacancy rates for these occupations are lower than they are for nurses, indicating that the existing special pay authority may be sufficient to meet VA's staffing needs in these occupations.

Bills passed: Both House and Senate bills propose remedies for VA's ongoing recruitment and retention difficulties for nurses and the Senate bill also would authorize extending the remedy for other non-physician or non-dentist title 38 employees and persons employed under VA's "hybrid" title 5/title 38 employment authority.

Section 1 of H.R. 1199 would, effective October 1, 1990, have revised as described below, the manner in which basic pay is determined for RNs.

Section 251 of the Senate bill would, effective July 1, 1990, have required the Secretary of Veterans Affairs to ensure that basic pay is established for RNs, RNAs, and CRNAs in a manner described below, and authorize such a change for other health-care professional positions paid under title 38 as the Secretary determines upon the recommendation of VA's Chief Medical Director (CMD).

Positions covered

House bill: Section 1 of H.R. 1199 would require VA to implement a new special pay authority for RNs.

Senate bill: Section 251 would require VA to implement a new special pay authority for RNs, RNAs, and CRNAs and would also authorize the Secretary, upon the recommendation of the CMD, to implement these provisions for positions referred to in clauses (1) and (3) of section 4104 of title 38 other than physicians, dentists, nurses.

Compromise agreement: Section 102 would establish a new subchapter IV in chapter 73 of title 38, requiring VA to establish a program for setting competitive pay (described below) for RNs (including RNAs and CRNAs) and would allow VA also to implement such a program for any of the positions referred to in clauses (1) and (3) of section 4104 of title 38 other than physicians, dentists, and nurses, if the Secretary determines, upon the recommendation of the CMD, that it is necessary to do so in order to overcome recruitment and retention problems with regard to such positions (together with RN positions referred to as "covered positions").

Purpose

House bill: The title of H.R. 1199 would provide that the purpose of the nurse-pay provisions set forth in the bill is to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility to the medical center director in the pay system for those nurses.

Senate bill: Section 25 would provide that the purpose of this provision is to ensure that the rates of basic pay for personnel employed in covered positions are sufficient for Department health-care facilities to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the recruitment and retention of qualified personnel for such positions.

Compromise agreement: Section 102 would provide that the purpose of the provisions establishing the competitive pay system is to ensure, by a means providing increased responsibility and authority to VA health-care facility directors, that the rates of basic pay for personnel in covered positions (including basic pay for part-time personnel in such positions) are sufficient to enable a Department facility to be competitive, on the basis of pay and other employee benefits, with non-VA health-care facilities in the same labor-market area in the recruitment and retention of qualified health-care personnel in covered positions.

Pay structure

House bill: Section 1 of H.R. 1199 would require the Secretary to restructure the current nurse grades so as to provide four grades for RNs, rather than the current eight grades.

Senate bill: Section 251 would (1) require the CMD to prescribe three or more grades for RNs that would be competitive—on the basis of pay and other benefits—with pay in comparable non-Department health-care facilities, and (2) allow the CMD to prescribe a number of grades that would be competitive for any other covered position.

Compromise agreement: Section 101 would require the Secretary to establish four grades—Entry, Intermediate, Senior, and Director—for RNs. For other covered positions, the compromise agreement would allow the Secretary to establish such number of grades as the Secretary considers appropriate, after receiving the recommendation of the CMD.

Mechanism for setting pay

House bill: Section 1 of H.R. 1199 would establish four grades for registered nurses which would have the following relationship to the title 5 General Schedule:

New grades:	*GS grades*
Entry	6-10

Intermediate	9–12
Senior	12–14
Director	14–16

Section 1 of H.R. 1199 would further require that a range of basic pay for each grade be established and divided into 20 equal increments (steps), with each step representing the minimum increase in pay allowed, and with the lowest minimum rate of basic pay for each grade being the lowest step in that grade and the highest maximum rate of basic pay for each grade being the highest step in that grade with an exception for certain head nurse situations.

Senate bill: Section 251 would require that rates of basic pay be established and adjusted after a survey (described below) of the labor-market area was completed. The minimum rate of basic pay of the appropriate entry pay grade would be required to be sufficient for pay and other benefits to be competitive with, but not exceed, the highest entry-level rate paid in the labor-market area surveyed for that occupation. Additional steps within each grade and other, related grades would be increased or decreased accordingly, so as to maintain the same proportional relationship between steps and grades as existed prior to the adjustment.

The Senate bill would require the director of the VA facility concerned, whenever a grade is added to the schedule of grades or a step within a grade is added, to establish the rate of basic pay in the same manner as rates of pay would otherwise be established or adjusted under the Senate bill provisions.

The Senate bill would also require that the rates of basic pay for an additional grade bear the same relationship to the minimum rate of basic pay specified for each grade and to each other as the rates of basic pay within each other grade in the schedule bear to each other. In addition, the Senate bill would require that the rate of pay for an additional step within a grade bear the same relationship to other rates of basic pay within a grade as such other rates bear to each other.

Compromise agreement: Section 102 would establish four grades for RNs bearing the same initial relationship to the title 5 General Schedule as would the House bill. The compromise agreement would mandate that (1) a range of basic pay be established for each grade in a covered position; (2) the salary level of the initial step of each of the four grades be based upon local labor-market area survey data as described under the next heading (*i.e.*, the survey would be used as a basis for setting the salary paid entry-level employees in each of the four nurse grades established by the compromise agreement (or as to other covered positions for any number of grades determined by the Secretary after receiving the recommendations of the CMD); (3) the maximum rate of basic pay for each grade be not more than 133 percent of the minimum rate of basic pay for the grade except when the Secretary determines that a higher cap is necessary in order to recruit and retain a sufficient number of high-quality health-care personnel, in which case the Secretary may raise the cap up to 175 percent of the minimum rate of basic pay for the grade and must, in the already required annual report, provide the Committees with justification for doing so; (4) within each grade, the range of basic pay be divided into equal increments, known as "steps". The Secretary would prescribe the number of steps, and all grades in a covered position would be required to contain the same number of steps as described for head nurse pay when necessary and where the maximum rate for a grade exceeds 133 percent of the minimum rate for that grade.

DETERMINATION OF ENTRY RATES

House bill: Section 1 of H.R. 1199 would require the Secretary to provide in regulations that a local facility director may appoint a nurse at a rate of basic pay in excess of the minimum, but not in excess of the maximum, rate applicable to that nurse's grade (see the discussion of the House bill under the heading "Mechanism for Setting Pay", above) if the director determines that it is necessary to do so in order to obtain the services of nurses at that facility. The facility director could make that determination only in order to (1) provide pay in an amount competitive with the amount of the same type of pay paid to nurses at non-Federal facilities in the same labor market; (2) achieve adequate staffing at the facility concerned; or (3) recruit nurses with specialized skills. If a local facility director were to hire a nurse at a pay rate above the minimum entry-level step without prior approval at any higher level of authority within the Department, the director would be required to justify in writing the reasons for employing that nurse in the higher step and include the written justification in the first facility budget submission after that nurse was employed.

Senate bill: Section 251 would require entry rates to be based on a survey which would take place in the following manner:

(1) Not later than June 1, 1990 (thereafter December 1 of each year), each local facility director would be required to conduct a survey of entry-level compensation in each category of covered positions in a number—to be determined by the Secretary in regulations—of comparable health-care facilities in each facility's labor-market area to determine whether it was necessary to adjust entry-level compensation. Comparable health-care facilities would be those determined by the facility director, in accordance with regulations prescribed by the Secretary, to have been in direct competition with the VA for the recruitment and retention of qualified personnel and to have other characteristics comparable to the VA facility.

(2) If the number of comparable facilities in a labor market area is less than that specified in criteria or less than a local facility director considers necessary in order to produce a valid comparison, the facility director would be required to survey corresponding positions in both comparable and other health-care facilities within the labor-market area.

(3) If a survey were insufficient to yield meaningful results, 90 days before the date by which the facility director would be required to establish or adjust rates the facility director would be required to (A) identify a similar labor-market area having a VA medical facility; (B) notify the CMD of the area selected; and (C) unless the choice of area is disapproved by the CMD, establish the same rates of basic pay for covered positions as were established for the VA facility in the labor-market areas selected. Not later than 60 days after the facility director's selection of the labor-market area, the CMD would be required to approve or disapprove the director's choice. If the CMD disapproved the choice of labor-market area, the CMD would be required to designate any labor-market area that the CMD determined was similar and the facility director would be required to establish the same rates of basic pay as were established by the Department facility in that labor-market area. A labor market would be determined to be similar if it was of similar size, demographic characteristics, and labor-market characteristics.

Compromise agreement: Section 102 would require that, when a VA health-care facility is located in a labor market for which the Bureau of Labor Statistics (BLS) of the Department of Labor has carried out a current—in terms of position description as well as timeliness—industry-wage survey, the director of that facility would be required to use the survey data and results as the basis for determininig whether and to what extent salary adjustments for covered positions would be appropriate in order for VA to establish or maintain competitive compensation as necessary for the recruitment and retention of sufficient numbers of high-quality health-care personnel.

For VA health-care facilities that are not covered by appropriate BLS survey data, the facility director would be required to conduct a survey in accordance with regulations prescribed by the Secretary in consultation with the Secretary of Labor. These regulations would be required to ensure that the director collects information that is valid and reliable and consistent with BLS standards. The survey would utilize methodology comparable to that which BLS uses in conducting its industry-wage survey, except to the extent determined infeasible by the Secretary. After completing such a survey, the director would have 30 days in which to determine whether adjustments to pay are necessary in order to provide VA health personnel in covered positions with competitive salaries sufficient to meet recruitment and retention goals. If a facility director determines that adjustments are needed, the adjustments must take effect on the first day of the first pay period beginning after that determination is made.

If, on the basis of a facility-specific survey, or at any other time an adjustment is scheduled to take place, a facility director determines that no adjustment is needed, the director would be required to notify the CMD of the decision and the reasons for it within 10 days of reaching the decision.

Section 102 would prohibit a facility director from increasing the minimum rate of basic pay for a grade to an amount in excess of the beginning rate of compensation for corresponding positions at non-VA health-care facilities within the labor market in which the facility is located. The compromise agreement would permit a facility director, in calculating the beginning rate of compensation at non-Department facilities, to take into account non-monetary benefits to the extent they are reasonably quantifiable.

Thus, the Committees note, the compromise agreement is predicated on use of the survey as a guide to setting competitive pay. The Committees also note that the compromise agreement does not require a VA health-care facility director to increase pay rates.

Maximum limit on rates of pay

House bill: Section 1 of H.R. 1199 would provide that the maximum rates of basic pay for each nurse grade shall be the highest maximum rate of pay for the General Schedule corresponding to that nurse grade, as indicated above under the heading "Mechanism for Setting Pay".

Senate bill: Section 251 would require that, for any grade in the VA salary scale designated by the Secretary, upon the rec-

ommendation of the CMD, as an entry-level grade other than an entry-level grade for supervisors or managers, the entry salary not be increased to a level in excess of the maximum rate of grade 13 of the General Schedule under section 5332 of title 5. For those grades which are not entry level, including those which are entry-level grades for managers and supervisors, the entry salary could not exceed the statutory cap for Level V of the Executive Schedule under section 5316 of title 5.

Compromise agreement: Section 102 would prohibit the establishment of a maximum rate of basic pay for any grade of a covered position greater than the maximum rate of basic pay established for positions in Level V of the Executive Schedule.

Protection of current pay

House bill: No provision.

Senate bill: Section 251 would provide that, when the rate of basic pay for a covered position at a facility is reduced under that section, the basic pay of an employee serving in such a position on the day before the reduction would not be reduced so long as the employee continues to serve in that position at that facility.

Compromise agreement: Section 102 would provide that, in the case of an adjustment that locally reduces the rates of pay for a grade, an existing employee's pay could not be decreased so long as the employee continues to serve in that covered position with the same responsibilities at that facility. If an existing employee is subsequently advanced to a higher step within the same grade or promoted to a higher grade, the employee would be paid at a rate of basic pay not less than the rate applicable to the employee prior to the promotion so long as the employee continues to serve in that covered position at that facility.

Effect of transferring to another facility

House bill: Section 1 of H.R. 1199 would provide that a nurse who transfers from one medical center to another may not be reduced in grade, but his or her rate of basic pay would be established at the new medical center in a manner consistent with the practices of that medical center for a nurse of that grade.

Senate bill: Section 251 would provide that when transferring, voluntarily or otherwise, from one VA medical center to another, a covered employee who continues to hold a position with the same responsibilities, as determined by the CMD, would maintain the step and grade held immediately prior to the transfer, but would be subject to the pay rate attributed to that step and grade in the medical center to which the employee is transferred.

Compromise agreement: Section 102 contains such a provision which is applicable to all employees in covered positions.

Within-grade increases

House bill: Section 1 of H.R. 1199 would provide facility directors with the authority to determine the standards and criteria for within-grade increases, provided that any within-grade increase in the rate of basic pay payable to a nurse would be required to be by one or more step increments.

Senate bill: No provision.

Compromise agreement: Section 102 follows the House bill.

Automatic step increases

House bill: Section 1 of H.R. 1199 would require regulations to provide at least a one-step increase within the nurse's grade not less often than every 2 years that the nurse holds that grade and performs satisfactorily.

Senate bill: No provision.

Compromise agreement: No provision.

Promotions

House bill: Section 1 of H.R. 199 would require (1) at least a one-step within-grade increase for a nurse for a new assignment which is considered a promotion; and (2) that a nurse promoted to a next higher nurse grade receive a basic pay rate greater than the basic pay rate applicable before the promotion.

Senate bill: No provision.

Compromise agreement: Section 102 would follow the House bill and would also apply to all employees in covered positions.

Merit awards

House bill: Section 1 of H.R. 1199 would provide facility directors with the authority, under regulations prescribed by the Secretary, to give within-grade step increases or pay cash awards to nurses who have qualifications, experience, or achievement which the director determines exceed the standards for the nurse's grade. In making these determinations, a facility director would be required to take into consideration: (1) service with relevant professional committees or groups; (2) service in a responsible office in a professional nursing society; (3) educational attainment including certification; (4) publication of articles in a professional journal; (5) exemplary job performance; and (6) other appropriate evidence of professional stature.

Senate bill: Section 259 would require each nurse, upon recertification in the specialty in which the nurse was working, to be given a lump-sum payment equal to one percent of the nurse's annual salary unless that nurse's last performance rating was less than satisfactory.

In addition, section 264 would (1) require that cash awards analogous to those required by section 5406 of title 5 be paid to title 38 supervisors and managers (including head nurses) who received the highest proficiency rating possible, as determined under criteria promulgated by the Secretary, and would authorize such awards for other title 38 employees; (2) require that such awards range from 2-10 percent of the employee's base annual salary but allow the awards to be increased up to 20 percent of such salary if the employee's performance was unusually outstanding; (3) prescribe the aggregate amount paid for such awards in a manner identical to that prescribed in section 5406(c)(1) of title 5, which establishes the maximum total amount of cash awards as not more than 1.5 percent multiplied by the aggregate amount of basic pay payable to the covered employees in the covered department or agency and the minimum amount as not less than 1.15 percent multiplied by the aggregate amount of basic pay payable to such covered employees; and (4) require the Secretary to establish a cash award program identical to the program under section 5407 of title 5 (which provides for amounts up to $10,000, or, for outstanding performance, up to $25,000) for title 38 supervisors and managers in grades comparable to General Schedule grades 13-15 who, by their suggestion, invention, superior accomplishment, or other personal effort, contribute significantly to the Federal government.

Compromise agreement: Section 102 would require VA to award cash bonuses of up to $2,000 to nurses upon certification in a recognized nursing specialty and would grant VA the authority to award cash bonuses of up to $2,000 to covered employees on the basis of achievement and exemplary job performance.

The Committees intend that the Secretary, when awarding bonuses on the basis of achievement, generally utilize the following criteria (derived from those set forth in the House bill): (1) service with relevant professional committees or groups; (2) service in a responsible office in a relevant professional group; (3) educational attainment, (4) publication of articles in a professional journal; and (5) other appropriate evidence of professional achievement.

The compromise agreement would not alter VA's existing authority to provide merit, incentive, or performance step increases.

Head nurse pay increase

House bill: Section 1 of H.R. 1199 would require that any nurse serving in a head nurse position receive, while so serving, a 2-step increase above the step that nurse would otherwise hold, which would have been counted as basic pay for pay and benefit purposes.

Senate bill: Section 255 would require that nurses assigned to the head nurse position for more than 30 days receive a 6-percent differential, the amount of which would be counted as basic pay for pay and benefit purposes.

Compromise agreement: Section 102 follows the House bill. In addition, the compromise agreement would provide that, if the nurse is being paid at the highest or next-to-highest step in a grade at the time the nurse commences service as a head nurse, additional equivalent pay steps would be created in that grade in order to implement the provisions of this section of the bill. Such additional equivalent pay steps may exceed the maximum rate of pay for that grade.

Cost-of-living adjustments

House bill: No provision.

Senate bill: Section 251 would require individual facility directors to ensure that appropriate cost-of-living adjustments (COLA) in rates of pay are provided for years following 1990 unless a director waives, in whole or in part, any adjustment for any year in which such director finds that a COLA is not necessary in order to pay a competitive basic rate of pay.

Compromise agreement: Section 102 would (1) require a facility director to notify the CMD of his or her decisions concerning whether to provide a COLA otherwise available to all Federal employees within 10 days of reaching that decision, and (2) require the Secretary to include in a report required to be submitted to the House and Senate Committees on Veterans' Affairs in February 1992, 1993, and 1994 a description of the provisions of COLAs in VA facilities, explaining, by facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

Overtime rates of pay

House bill: Section 1 of H.R. 1199 would repeal the cap on nurse's overtime earnings so as to provide that a nurse would earn overtime pay at the rate of one-and-one-half times the individual's hourly rate of basic pay.

Senate bill: Section 254 contains an identical provision.

Compromise agreement: Section 103 contains this provision.

Reports

House bill: No provision.

Senate bill: Section 251 would require the Secretary, not later than March 1, 1991, and each year thereafter, to submit an annual report to the Committees containing (1) an assessment of the implementation of the new pay authority and the effect of market-rate adjustments on the ability of VA to recruit and retain health-care professionals; (2) a description of any other legislative actions recommended to assist in recruitment and retention efforts; and (3) if the authority had been used only to adjust nurses' salaries, the reason for not adjusting the salaries of other covered health-care professionals and any plans for doing so in the future.

Compromise agreement: Section 102 would require the Secretary, not later than December 1 of 1991, 1992, and 1993, to submit to both Committees annual reports describing (1) the implementation of the provisions of the compromise agreement and the effect of market-rate adjustments on the Department's ability to recruit and retain health-care personnel; (2) plans for the use of the authorities provided in the compromise agreement during the next fiscal year; (3) rates of basic pay in effect during the immediately preceding fiscal year as well as a comparison with rates in effect during the prior year; (4) the numbers of employees in covered positions who left such positions with the Department during the preceding year, the numbers who left employment at one Department medical facility for employment at another Department facility, and the numbers who changed from full-time to part-time status (and vice versa), and a summary of the reasons therefor; (5) the numbers of vacancies in covered positions and a summary of the reasons for the vacancies; (6) the number of employees who left employment at a Department facility in one BLS labor-market area for employment at a facility in another such area, without changing residence; (7) the justification for any increase in the maximum rate for a grade above 133 percent of the minimum; and (8) the use of the cash bonus authority as created in the provision described above, under the heading "Merit Awards", as well as other authorized performance awards.

As noted above under the heading "Cost-of-Living Adjustments", the compromise agreement would also require the Secretary to submit a second report each year, on February 1 of 1992, 1993, and 1994, describing, by facility, the extent to which pay adjustments are granted at the time of Federal pay adjustments under section 5305 of title 5.

Issuance and content of regulations

House bill: Section 1 of H.R. 1199 would require the Secretary to promulgate regulations which would provide each facility director the authority, without a requirement for prior approval from a higher Department authority, to appoint a nurse at a rate of pay higher than the minimum of the applicable grade but not in excess of the maximum of that grade if the director determines that such action was necessary to (1) provide pay competitive with non-Federal facilities in the same labor market, (2) achieve adequate staffing, or (3) recruit nurses with specialized skills, which are especially difficult or demanding.

Senate bill: Section 251 would require the Secretary, upon the recommendation of the Chief Medical Director, to promulgate regulations providing facility directors maximum flexibility, with minimal documentation requirements, to establish rates of pay which do not exceed the maximum rate of pay paid by the highest paying surveyed non-Department health-care facility, taking into consideration non-Department health-care facilities' pay and related benefits.

Compromise agreement: Section 102 would require the Secretary, after receiving the recommendations of the Chief Medical Director, to prescribe regulations to carry out the new subchapter that would enable facility directors to exercise the authority accorded to them with regard to pay rates subject to minimal documentation requirements consistent with good administration.

Date for promulgation of regulations and effective dates

House bill: Section 3 of H.R. 1199 would establish an effective date of October 1, 1989.

Senate bill: Section 251 would require (1) the Secretary to prescribe interim final regulations on April 1, 1990, if final regulations were not prescribed by that date: and (2) each facility director to make determinations and establish and adjust rates of basic pay according to section 251 in the event that interim final regulations were not prescribed before April 1, 1990.

Compromise agreement: Section 104 would provide that the foregoing provisions would take effect on the date of enactment except that pay pursuant to those provisions would take effect with respect to the first pay period beginning after April 1, 1991.

Involvement of labor organizations

House bill: No provision.

Senate bill: Section 251 would require (1) the Secretary, when developing the criteria for the conduct of the local compensation surveys, to consult with a representative of each labor organization accorded exclusive recognition under chapter 71 of title 5 for a unit that includes covered employees whose pay is to be established according to such surveys; and (2) the facility director to consult with such representatives on (A) the criteria developed for the conduct of surveys, (B) the director's plans for the collection of data in conducting surveys, and (C) the determinations regarding specific basic-pay rates.

Compromise agreement: No provision.

Freedom of information act

House bill: No provision.

Senate bill: Section 251 would provide that survey information be protected under the Freedom of Information Act (5 USC 552).

Compromise agreement: Section 102 follows the Senate provision.

TITLE II—MISCELLANEOUS

Noninstitutional alternatives to nursing home care

House bill: No provision.

Senate bill: Section 213 would require that (1) VA conduct a 4-year pilot program (with a report due after 3 years) for the purposes of furnishing health, rehabilitative, and (by contract with non-VA entities) health-related services in noninstitutional settings; (2) participation in the program be limited to veterans who are eligible for and otherwise in need of nursing home care and either (A) are receiving or need that care primarily for the treatment of a service-connected disability, or (B) have service-connected disabilities rated at 50 percent or more; (3) VA case managers be used to coordinate and facilitate services contracted for with public and private agencies; and (4) the total cost of the program during each fiscal year be limited to not more than 65 percent of the total cost that would have been incurred had the veterans involved been furnished with nursing home care instead.

Compromise agreement: Section 201 follows the Senate bill except that the provision would be discretionary.

Sharing of specialized medical resources

Current law: Section 5053(a) of title 38 permits the Secretary to make arrangements, by contract or other form of agreement, between VA hospitals and other hospitals (or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions), medical schools, or clinics in the medical community for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a VA health-care facility to provide a similar resource, or when specialized VA medical resources, while justified on the basis of veterans' care, are not utilized by VA to their maximum effective capacity. Section 5053(b) provides for reciprocal reimbursement based on a charge which covers the full cost of services rendered, and supplies used, and includes normal depreciation and amortization costs of equipment. Any proceeds received therefrom must be credited to the applicable VA medical appropriation.

House bill. No provision.

Senate bill: Section 223 would revise VA's authority to enter into agreements for sharing scarce medical resources so as to (1) expand the categories of facilities with which VA may enter into sharing agreements to include all health-care facilities; (2) delete the requirement that reimbursement rates cover full costs and substitute a standard providing for flexibility in determining reimbursement rates, taking costs into account; and (3) provide that payments for the use of VA resources be returned to the VA facility involved.

Compromise agreement: Section 202 follows the Senate bill.

Temporary full-time and temporary student appointments

Current law: Section 4114 of title 38 provides authority for the appointment of various health-care personnel on a temporary full-time, part-time, or without-compensation basis. Under this authority, VA may employ students who are pursuing academic programs in various health-care occupations and individuals who have completed such programs and are pending registration or licensure. Appointments of students may not exceed one year, except that a student nurse may be reappointed for a second year. Appointments of individuals pending registration or licensure may not exceed one year except that an individual pending registration as a graduate nurse may be appointed for up to two years.

House bill. No provision.

Senate bill: Section 263 would authorize (1) extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, pharmacy, or practical or vocational nursing, and (2) extending for a period not exceeding two years the temporary full-time appointment of individuals who have completed a course of training in respiratory therapy, physical therapy, practical or vocational nursing, pharmacy, or occupational therapy, while such individuals are

pending registration or licensure in a State or certification by a national board.

Compromise agreement: Section 203 follows the Senate bill.

Report on post-traumatic stress disorder

Current law: Under section 110(b) of the Veterans Health Care Act of 1984 (Public Law 98-528), the Secretary is required to submit to the Committee on Veterans' Affairs of the Senate and the House of Representatives annual reports regarding the Department's efforts regarding PTSD and to include in such reports the views of the Department's Special Committee on PTSD. The annual reports were required to be submitted no later than February 1 of 1986, 1987, 1988, and 1989. Section 201(e) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) required the Special Committee on PTSD to submit currently to the Department and the Committees on Veterans' Affairs by February 1, 1990, a report updating the earlier reports.

House bill: Section 201(e) of H.R. 901 would extend for three years (beyond 1989) the reporting requirement of the Secretary.

Senate bill: Section 205 of S. 13 would extend the reporting requirements for three years (beyond 1989) and require that the reports be made directly by the Special Committee on PTSD and that the reports be submitted concurrently to the Department and the Committee on Veterans' Affairs.

Compromise agreement: Section 204 would require the Special Committee to submit a report concurrently to the Department and the Committees on Veterans' Affairs by February 1, 1991.

Educational assistance for health profession students under reserve GI bill

House bill: H.R. 3199 would amend chapter 76 of title 38 to add a new subchapter V which would (1) authorize the Secretary to identify staffing shortages in health professions within the VA and establish a discretionary post-secondary educational assistance program for Montgomery GI Bill-Select Reserve (chapter 106 of title 10, United States Code) participants who major in such health-care professions and agree to work for VA for one year for each year of assistance received; (2) provide that to be eligible for this program the individual must be entitled to benefits under chapter 106 of title 10 and score above the 50th percentile on the Armed Forces Qualification Test; (3) authorize VA to pay a $400-per-month stipend during the time the student is taking his or her health-related courses to such program participants; and (4) require a participant who does not fulfill his or her obligation with VA to repay the benefit amount, plus interest and penalty, directly to VA beginning on the date of the breach of contract.

Senate bill: No provision. However, section 242 of S. 2100 as reported to the Senate on July 19, 1990 (S. Rpt. No. 101-379) is substantively identical except that it would (1) would require that to be eligible for participation in the program the individual must be receiving benefits under chapter 106 of title 10; (2) require (rather than just authorize) the Secretary to pay a participant a monthly stipend of $400; (3) require that, if an individual could not complete obligated service as a result of performing active duty, the individual would be permitted to complete obligated service upon completion of active-duty service; and (4) authorize the Secretary to prescribe regulations under which the Secretary could waive the obligated service requirement in cases in which the Secretary determines that the individual cannot perform the service for reasons beyond the individual's control or that waiver would be in the best interest of the government.

Compromise agreement: Section 205 follows the House bill except that it contains the provisions described in items (3) and (4) of the description of the Senate bill.

Procedures relating to computer matching programs in certain educational assistance programs under titles 38 and 10 of the United States Code

Current law: The continuing eligibility of participants in the Montgomery GI Bill—including both Selected Reserve and Active-Duty components under chapter 106 of title 10, United States Code, and chapter 30 of title 38, respectively—and the Post-Vietnam Era Educational Assistance Program under chapter 32 of title 38 who are using education benefits while still serving in the Reserves or on active duty is periodically verified through the use of a computer match of Defense Department personnel data with VA beneficiary data for these programs. If DoD data reflect changes rendering an individual ineligible, such as termination of Reserve status or a disqualifying discharge from active duty, VA terminates benefit payments.

The Computer Matching and Privacy Protection Act (CMPPA) (Public Law 100-503), generally effective January 1, 1990, requires that Federal beneficiary ineligibility data resulting from computer-data-matching programs be independently verified before benefits may be suspended, terminated, reduced, or denied or other adverse action may be taken against the beneficiary. Section 413(b) of Public Law 101-237 delayed the effective date of Public Law 100-503 until July 1, 1990, with respect to the abovementioned VA-administered educational assistance programs.

House bill: Section 4 of H.R. 4089 would (a) provide that VA, in lieu of complying with CMPPA requirements, may suspend, terminate, reduce, or make a final denial of an individual's educational assistance under chapter 30 or 32 of title 38 or chapter 106 of title 10, or take other adverse action against the individual, based upon information produced by a computer-data-matching program with DoD, if (1) VA has provided the individual with a written notice containing a statement of the findings based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days (excluding Saturdays, Sundays, and Federal holidays) after the date of the notice, and (2) the 10-day period has expired; and (b) further postpone, until October 1, 1990, the effective date of the CMPPA with respect to those chapters.

Senate bill: No provision.

Compromise agreement: Section 206 contains the House provision with an amendment ratifying actions taken by the Secretary utilizing DoD data during the period beginning July 1, 1990, and ending on the date of enactment.

Vietnam-era GI bill eligibility for certain services academy graduates and senior Reserve Officer Training Corps members

Current law: Public Law 94-502 established the Post-Vietnam Era Veterans Educational Assistance Program (VEAP) (chapter 32 of title 38) for those who entered on active duty after December 31, 1976, and generally closed off the Vietnam-era GI Bill (chapter 34) to those who entered active duty after December 31, 1976, unless they had previously contracted with the Armed Forces to enter on active duty and were enlisted in or assigned to a reserve component before January 1, 1977, and entered on active duty within 12 months after that date.

House bill: Section 4 of H.R. 1358, effective as of January 1, 1977, would (a) extend chapter 34 eligibility to 1977 and 1978 service academy graduates and 1978 Senior Reserve Officer Training Corps graduates who met the chapter 34 180-day and active-duty character-of-service requirements and, before January 1, 1990, filed an irrevocable election of chapter 34 benefits; (b) make those graduates eligible for refunds of any amount of their unused contributions to the VEAP account; and (c) make those who received educational assistance under chapter 32 eligible for payment of an amount equal to the amount by which chapter 34 benefits for the program pursued exceeded the assistance received under chapter 32 for that program.

Senate bill: No provision. (However, section 336 of S. 2011 (100th Congress) as reported and as passed by the Senate in H.R. 4741 on October 18, 1988, was substantively similar to the House provision, with the additional requirement that, to be eligible for chapter 34, the individual must have enrolled in the chapter 32 program while on active duty.)

Compromise amendment: Section 207 follows the House bill with a modification (1) postponing until January 1, 1992, the deadline for filing an election, and (2) providing for equivalent payments by way of free-standing provisions rather than amendments to title 38.

Limitations on changes of programs of education

Current law: Under section 1791 of title 38, a veteran or other eligible person pursuing education with VA-administered assistance is generally permitted not more than one change of program of education. The Secretary may approve an additional change of program if the Secretary finds—pursuant to the requirements of section 1791(b) (1) and (2)—that (1) the program of education which the individual proposes to pursue is suitable in terms of the individual's aptitudes, interests, and abilities, and (2) in the case of an individual who interrupted or failed to make progress in the pursuit of the prior program, there is a reasonable likelihood that there will not be a recurrence of the interruption or failure to progress. Additional changes of program may not be approved unless the Secretary finds that the change is necessitated by circumstances beyond the individual's control.

Senate bill: Section 319 of S. 13 would amend section 1791 of title 38 so as to (a) repeal the general prohibition against more than two changes of educational program, and (b) in the case of second and subsequent changes of program, permit approval only if (1) the individual accepts educational or vocational counseling services referred to in section 1663 of title 38, and (2) the Secretary determines, on the basis of the results of the educational or vocational counseling, that the change is suited to the individual's aptitudes, interests, and abilities.

House bill: No provision.

Compromise agreement: Section 208 would not amend the law regarding a first change of program but, with respect to second and subsequent changes, would authorize the Secretary to establish a proce-

dure to approve changes of program in cases in which the requirements of current section 1791(b) (1) and (2) are satisfied.

The Committees note that, in designing such a procedure, the Secretary would have a wide range of options, including (a) requiring counseling or making it voluntary; (b) whether counseling is mandatory or voluntary, providing it through the authority in section 1663 of title 38 for contract counseling, possibly through the schools; and (c) requiring counseling in specific situations and making it voluntary in others.

Also, the Committees urge that VA follow through with the oral commitment provided at an August 2, 1989, hearing of the House Committee to find a better definition of the term "change of program" in section 21.4234 of title 38, Code of Federal Regulations.

Naming of Department of Veterans Affairs Medical Center in Saginaw, Michigan

House bill: H.R. 2569 would designate the Department of Veterans Affairs Medical Center in Saginaw, Michigan, as the "Aleda E. Lutz Department of Veterans Affairs Medical Center".

Senate bill: No provision. (However, S. 2145, introduced by Senators Riegle and Levin on February 20, 1990, contains identical language.)

Compromise agreement: Section 209 contains the House provision.

Certain limitations on outside employment for certain employees

Current law: Section 4106(g) of title 38 authorizes VA to apply to certain title 5 employees, *i.e.*, clinical or counseling psychologists, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists, the provisions authorizing VA to set rates of pay and qualification standards for title 38 employees. The Congress emphasized, in the report language accompanying the legislation which created these "hybrid" occupational groups, that it was its intent not to diminish or impair in any way the rights and protections guaranteed the employees under the express provisions of title 5. These rights and protections include the right to seek employment outside VA.

House bill: Section 102 of H.R. 901 would add a new subsection to section 4108 of title 38 which would clarify that any provision of title 38 limiting employment outside of the Department by an employee of the Department would not apply to a person employed in a title 5/title 38 hybrid position.

Senate bill: No provision.

Compromise agreement: The compromise agreement does not contain this provision.

The Committees note that the limitations on outside employment set forth in section 4108 of title 38 apply only to employees appointed under title 38 and that title 5/title 38 hybrid employees are not covered by these regulations. The Committees urge VA to promulgate personnel policies making clear the status of the hybrid employees in this regard.

Mr. MURKOWSKI. Mr. President, I rise today in strong support of the Senate substitute amendment to H.R. 1199, the proposed Department of Veterans Affairs Nurse Pay Act of 1990. This substitute amendment reflects a compromise agreement which has been reached between the House and Senate Committees on Veterans' Affairs. These provisions of the compromise are derived from bills which have passed either the House or the Senate in 1989. Additionally, the administration-proposed VA nurse pay bill—S. 2458, as introduced on April 19, 1990—served as a useful tool during consideration of VA nurse pay legislation.

This compromise agreement reflects many months of hard work and negotiations. I believe that it is a sound and well-crafted compromise. I will not describe the provisions in the compromise agreement because they are discussed in detail in the explanatory statement which accompanies the bill.

The House and Senate Committees on Veterans' Affairs have been concerned about the VA's difficulties in recruitment and retention of health professions—especially registered nurses. Nurses play such a vital role in ensuring that our veterans receive timely and quality health care services. I commend their outstanding commitment to this effort. The Department of Veterans Affairs has recognized that they are simply not attracting and retaining adequate numbers of RN's. This shortage of nurses is not unique to the VA however. The private sector and the Department of Defense have similar problems. In this regard, last year both the House and Senate passed legislation to improve VA's ability to recruit and retain nurses. Although it took more time than any of us would have liked, I am pleased that the committees have reached agreement on this vitally important legislation.

The nurse pay provisions establish a mechanism to aid VA facility directors in setting rates of pay which will be competitive in the local labor market. I wish to note that these provisions are designed, in part, to provide the health care facility director with authority and flexibility in establishing rates of basic pay. The director should take into consideration, in deciding whether and to what extent to adjust nurse pay rates, the financial position of the facility and VA's ability to fund such rates. As stated in the explanatory statement: First, the local survey information should be used as a guide in setting rates; and second, VA is not required to increase rates of pay for nurses.

I want to especially note that the agreement contains a provision—section 201—derived from a bill which I have introduced during the past several Congresses—to authorize VA to conduct a 4-year pilot program of providing health, rehabilitative, and health-related services to certain service-connected veterans. These services include homemaker, transportation and assistance with activities of daily living. I intend to work hard to ensure that VA implements this important new authority which will permit certain veterans to remain at home for a longer period of time before illness causes institutionalization.

I also am very pleased that the compromise agreement includes a provision—which is derived from a bill introduced by Congressman CHRIS SMITH as H.R. 3199 and from a similar bill which I introduced (S. 2542)—to provide extended educational assistance to certain individuals who study health professions. Specifically, this provision would authorize VA to establish a new program to provide, in return for agreement for service with VA, post-secondary educational assistance—a $400 per month stipend—to reservists who are students in health professions and are eligible for educational assistance under the Montgomery GI bill. This provision will provide VA with a cost-effective program to enable them to recruit health professionals.

Mr. President, in conclusion I want to express my appreciation to the chairman of the Veterans' Affairs Committee, Senator ALAN CRANSTON, and the other committee members and their staffs for their valuable contributions on this important legislation. I also thank the leadership of the House Veterans' Affairs Committee—G.V. "SONNY" MONTGOMERY, the chairman, and BOB STUMP, the ranking minority member.

Mr. President, I would be remiss if I did not mention the tremendous efforts of the committees' majority and minority staffs. I appreciate their hard work on this package. First, I thank my own staff which is lead chief counsel and staff director, Alan Ptak, with the assistance of Lisa Moore, Chris Yoder, Vic Reston, Todd Mullins, Janet Klinger, and Carrie Gavora.

Additionally, I wish to recognize the efforts and cooperation of the entire Senate majority staff. However, I want to specifically mention the following individuals who were particularly instrumental in this effort: Ed Scott, Bill Brew, Susan Thaul, Janet Coffman, Charles Lee, and Jon Steinberg, and former staff of the committee Sandi Issacson, and Jodi Epstein.

The staff of the House has been very cooperative, and I wish to acknowledge their hard work. In particular, I thank Mack Fleming, chief counsel and staff director, Pat Ryan, Victor Raymond, Greg Matton, Jill Cochran. From the minority staff, I thank Carl Commonator, minority counsel and staff director, Tina Alvarado, and Kingston Smith. I also express my appreciation to Bob Cover, with the House Legislative Counsel, who did the primary drafting of the final bill.

Mr. President, I believe the House/Senate agreement is fair and was worked out in good faith by all the parties involved. I urge my colleagues to join me in supporting this measure. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2511) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 1199), as amended, was passed.

The title was amended so as to read: "An act to amend title 38, United States Code, to establish a system of competitive pay for nurses employed by the Department of Veterans' Affairs, to authorize the Secretary of Veterans' Affairs to make such system applicable to certain other health-care personnel, to make certain improvements in veterans' health and education programs, and for other purposes.".

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENT DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 698, S. 2753, Developmental Disabilities Assistance and to reauthorize the Bill of Rights.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2753), a bill to reauthorize the Development Disabilities Assistance and Bill of Rights Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with even the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or has specific congenital or acquired conditions with a high probability of resulting in developmental delay if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(6) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(7) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(8) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(9) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(10) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) miligate against the effects of developmental disabilities.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Family, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role and activities of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and inserting "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "October 3, 1988".

SEC. 10. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 11. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 12. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 13. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 14. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2)(F);

(B) by striking "and" at the end of paragraph (2)(G)(i);

(C) by inserting after clause (ii) of paragraph (2)(G) the following new clauses:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have declined to act on behalf of the person; and

"(iv) any person with a developmental disability who resides in a public facility when as a result of monitoring visits the system has reason to believe that the person may be subject to abuse or neglect;"; and

(D) by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" in paragraph (5) and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the clients served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 15. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 16. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by

the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(C)(i) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 4 years and are renewable.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a)."; and

(G) by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(2) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 17. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated."; and

(C) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 18. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $13,429,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 19. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 20. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by striking "determine the feasibility and desirability of developing a nationwide information and referral system" and inserting "promote the development of regional and national information and referral networks"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 21. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

AMENDMENT NO. 2512

Mr. LEVIN. Mr. President, on behalf of Senator HARKIN, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN, proposes an amendment numbered 2512.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing

education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by

the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

Mr. HARKIN. Mr. President, I rise today to urge the adoption of an amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990. S. 2753, as amended, modifies and extends for 4 years the Developmental Disabilities Assistance and Bill of Rights Act.

S. 2753, as amended, was unanimously ordered reported by the Committee on Labor and Human Resources on June 27, 1990. Cosponsors include Senators DURENBERGER, KENNEDY, HATCH, SIMON, COATS, ADAMS, JEFFORDS, METZENBAUM, AKAKA, BINGAMAN, DODD, DOLE, and COCHRAN. The amendment in the nature of a substitute is offered today in lieu of the officially reported bill because the substitute more accurately reflects the policies agreed to by the committee and described in section IV of Senate Report No. 101-376, "Explanation of the Bill and Committee Views".

Because substantial changes were made to the act in 1987 by Public Law 1460-146, this bill largely clarifies and fine tunes the act in order to further its goals. The bill reaffirms and strengthens Congress' commitment to enable all persons with developmental disabilities, including those with severe disabilities, to achieve independence and inclusion in society.

Programs authorized under this act may be considered small in the scheme of things, but they are programs that make a difference. They are programs that enhance the network of services for people with developmental disabilities by promoting awareness and coordination, setting new directions, and training the new generation of professionals who will work in these programs.

I thank Senator DURENBERGER, the ranking minority member on the Subcommittee on Disability Policy, for all his help and guidance in crafting this legislation. I also thank Senators KENNEDY and HATCH for their contributions to the bill. Special thanks to Senators METZENBAUM, SIMON, ADAMS, and JEFFORDS for their support of the program.

In addition, I would like to thank the Consortium of Citizens with Disabilities for all their guidance in keeping the Developmental Disabilities Act as cutting edge legislation, Dr. Al Healy, director of Iowa University Affiliated Facilities, Ms. Kim Hurley from Volga, IA, and the other witnesses who testified at the March 1990 hearings.

Special thanks to Mary Richardson and Bob Silverstein of my staff. Mary was with my subcommittee for the past year as a Kennedy Foundation fellow. Her expertise made all the difference in the world in developing a bill that truly enhances the independence, productivity, and integration into the community of people with developmental disabilities.

The Developmental Disabilities Act has four components: The basic State grant program which provides payments to the State developmental disabilities councils; protection and advocacy systems which protect the legal and human rights of persons with developmental disabilities; university affiliated programs which conduct interdisciplinary training, demonstrate exemplary services and technical assistance, and disseminate information; and projects of national significance which promote the independence, productivity, and integration into the community of persons with developmental disabilities.

BASIC STATE GRANT PROGRAM

Under the provisions of the Basic State Grant Program, State planning grants are provided to developmental disabilities councils to assist States to develop and implement comprehensive plans of community based and family centered services for persons with developmental disabilities.

The 1987 amendments to the Developmental Disabilities Act reaffirmed the thrust of the program and included amendments which clarify and strengthen the role of the councils with regard to their advocacy role in their respective States. Council independence was strengthened. Council activities were refocused to include policy analysis and other activities likely to have the greatest effect on the most number of people. Each State planning council was directed to study the effectiveness of federally assisted and State financed programs and to determine how satisfied people with disabilities are with what services they use and to identify groups who are unserved or underserved.

This bill further clarifies the independence of the planning council from the designated State agency with respect to receiving, accounting for, and disbursing funds. The bill also clarifies that planning councils may use Federal funds allocated under this act to hire council staff, even when a freeze on State hiring exists and that the planning council is responsible for hiring and supervising the director of the council. The bill allows the planning council to issue a request for review of the designated State agency by the Governor.

The bill expands the State plan requirements to assess and, if appropriate, update the findings of the comprehensive study and analysis conducted by planning councils as mandated by the 1987 amendments to the act. The bill further clarifies the primary function of the State planning council as serving as an advocate of persons with development disabilities, conducting public policy analysis, and planning.

The bill establishes authorization levels at $81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.

PROTECTION AND ADVOCACY SYSTEMS

As a condition for receipt of a State grant for planning and service coordination, States must have in effect a system to protect and advocate the rights of persons with developmental disabilities. These systems must have the authority to pursue legal and administrative remedies for such persons. They investigate reported incidents of abuse and neglect and provide counseling, and legal services.

The 1987 amendemnts to the Developmental Disabilities Act added several provisions to enhance the accountability of the protection and advocacy system and ensure particular attention to the needs of members of racial and ethnic minorities who are developmentally disabled. Systems were required to establish a grievance procedure and provide the public with the opportunity to make public comment on the established priorities. Access to records was clarified, as was the authority of the protection and advocacy system to investigate incidents of abuse and neglect if there is probable cause to believe that such incidents occurred.

The bill clarifies the conditions under which protection and advocacy systems have access to records, the process by which the Governor may redesignate the State agency implementing the protection and advocacy system and who may be appointed to a governing board, and reiterates current policy that protection and advocacy systems may bring suit on behalf of persons with developmental disabilities against a State or agencies or instrumentalities of a State.

The bill also clarifies that any amounts paid to the protection and advocacy system as a result of court judgments may be used to further the purposes of the system as set out by the act, and that a system may receive allotments under this act in direct

payment unless they delegate the payment to occur otherwise.

The bill authorizes to be apropriated $27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.

UNIVERSITY AFFILIATED PROGRAMS

University affiliated programs provide interdisciplinary training for students and other persons preparing to work with individuals with developmental disabilities. These programs are an integral part of a college or university, that conduct interdisciplinary training and applied research, demonstrate exemplary services for persons with developmental disabilities, and provide technical assistance to other agencies serving this population. Currently, there are 44 university affiliated programs and 3 satellite centers.

The 1987 amendments to the Developmental Disabilities Act retained the current focus on interdisciplinary training, the demonstration of exemplary services, and technical assistance. A new training grant program was established to focus on issues of growing national significance including early intervention, programs for the elderly, and community based service programs. Opportunities for expansion of the university affiliated program were made possible by permitting universities to apply for funds to study the feasibility of establishing a new university affiliated program or satellite program. States with no university affiliated programs were given priority.

The bill retains the training grant initiative but restructures the programs as a core training award. Grants in the amount of at least $90,000 may be awarded to applicants submitting proposals that meet quality standards. The grant will be for 3 years, if sufficient funds are available; reapplications for a subsequent period are on a competitive basis. If sufficient funds are available, the Secretary has the discretion to increase the award of the grant to $150,000, if applications are of sufficient scope and quality so as to address issues of national significance.

Priority areas in early intervention, aging, and community based service programs are retained under the training initiative. New priority areas are created in assistive technology and positive behavior management. An additional priority area is created which allows a university affiliated program, in consultation with the planning council, to develop a priority area that meets a need specific to the State they serve. University affiliated programs that apply for grants under this section must establish a consumer advisory group.

As a means of ensuring quality and accountability, the bill also creates a peer review process and criteria for monitoring training grants and assuring quality programs. In the event that an applicant does not submit a quality application, as determined by peer review, this section provides for the Secretary to utilize unexpended funds to make awards to other university affiliated programs.

The bill also provides for the continued expansion of university affiliated programs to all States. Applicants from States who are not served by a university affiliated program will be given first priority. However, in the event applications of sufficient quality are not received from States who are not served by a university affiliated program, the Secretary may consider applications from States that are served by a university affiliated program or satellite center but not able to serve particular geographic regions of the State, if such applications demonstrate a need.

For the basic core grants, the bill authorizes $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993, and $13,429,000 for fiscal year 1994. For the training core grants, the bill authorizes to be appropriated $7,000,000 for 1991, $8,652,000 for 1992, $10,386,000 for 1993, and $12,050,000 for 1994.

PROJECTS OF NATIONAL SIGNIFICANCE

Projects of national significance include demonstration, research, and evaluation projects intended to expand and improve services to persons with developmental disabilities. Such projects include: First, data collection; second, support for families of persons with developmental disabilities; third, technical assistance to improve the advocacy, planning and training functions of the programs under this act; and fourth, pursuit of Federal interagency initiatives including employment, pediatric AIDS, and early intervention services for children.

The 1987 amendments to the Developmental Disabilities Act renamed this section, previously titled "Special Projects." A feasibility study of information and referral systems was authorized. Projects to train policymakers, develop an ongoing system, pursue interagency initiatives, and other projects of national size and scope were conducted.

This bill amends the purpose to include data collection and analysis, technical assistance to program components and for the development of information and referral systems, education of policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.

The bill authorizes to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, $4,514,800 for fiscal year 1994.

I urge the passage of this bill.

Mr. SIMON. Mr. President, I want to thank Senator HARKIN and his staff for their hard work on the reauthorization of the Developmental Disabilities Act. Senator HARKIN is the lead sponsor of this important legislation and chaired the hearing we had on this in late March. His fine work has led to a strong bipartisan bill that was unanimously approved by the Labor and Human Resources Committee earlier this month.

This legislation guarantees support services for individuals with developmental disabilities. Programs offered under this act include employment services; community living options; early intervention; protection and advocacy; and technical assistance and training through university affiliated programs.

There are more than 2 million individuals with developmental disabilities in the United States. It is vital that we help provide the support they need to lead full and productive lives. This bill is designed to expand and improve services that help them achieve greater independence, productivity, and integration into the community.

Senator HARKIN is someone who looks at abilities rather than disabilities. He continually works to help people recognize and achieve their maximum potential. I commend him for his efforts. I am proud to be a cosponsor of this legislation, and I look forward to its swift passage.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HARKIN in urging passage of S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act. Originally created in 1970, the developmental disabilities programs reauthorized in this legislation are the only Federal programs which address the comprehensive needs of persons with developmental disabilities. The State grants, the protection and advocacy system, and the university affiliated programs provide essential assistance to individuals with developmental disabilities.

This legislation increases the authorization for the Basic State Grant Program to help State planning councils provide policy analysis, planning, and advocacy, and ensure comprehensive services for persons with developmental disabilities. The funds authorized under this block grant are needed to expand services to 3 million developmentally disabled individuals in the United States, many of whom remain underserved.

The additional funds authorized for the protection and advocacy system will enable persons who are developmentally disabled to enjoy improved services in their communities. The bill also provides additional authorization for university affiliated programs, so that institutions of higher education

can provide interdisciplinary training for more persons serving those with developmental disabilities. Finally, the bill authorizes demonstration projects to support the independence, productivity, and integration of persons with developmental disabilities.

In a sense, this legislation goes hand in hand with the historic Americans with Disabilities Act signed into law by President Bush last Thursday. The Nation is becoming increasingly aware of the needs and capabilities of citizens with disabilities and this measure will provide additional resources and program improvements to enable them to fulfill their potential. I urge my colleagues to join me in supporting S. 2753.

Mr. HATCH. Mr. President, I am pleased to support the legislation before us today which will fine tune the programs established under the Developmental Disabilities Assistance and Bill of Rights Act.

Since 1976, I have seen tremendous growth and progress in the field of developmental disabilities. The Developmental Disabilities Assistance and Bill of Rights Act was originally enacted to coordinate and provide necessary services to the more severely handicapped persons. It has helped to eliminate gaps in services, especially in rural and previously underserved regions.

The Developmental Disabilities Program is divided into four major components consisting of State grants, protection and advocacy, special projects, and university affiliated programs. Each has a major function in the provision of services to 4 million persons with developmental disabilities, 30,000 of which reside in my State of Utah.

I continue to support the important role the Federal Government plays in assisting the States with planning, coordinating, and monitoring these essential services. I also support providing research, training, and other necessary services for this special population.

I want to commend my colleagues, Senator HARKIN, Senator DURENBERGER, and Senator KENNEDY as well as the other cosponsors of this legislation for their hard work in preparing this legislation which will help these programs be even more responsive in addressing the needs of our disabled citizens.

Mr. President, I urge the support of all of my colleagues for this important bill.

Mr. JEFFORDS. Mr. President, I rise in support of S. 2753, the Reauthorization of the Developmental Disabilities Act of 1990.

We are entering a new era of recognition of the rights of individuals with disabilities. Just last week, the President signed into law the most far reaching bill yet to be enacted guaranteeing equal rights to disabled persons. The bill, long overdue, is a dramatic and historic step to assuring full participation by individuals with disabilities into everyday life.

S. 2753, while no less important, is not a new bill. The Developmental Disabilities Act was first enacted in 1971 to assure that all persons with developmental disabilities receive legal protection and comprehensive services through planning and coordination at the State level. The bill further provides money for university-affiliated programs to provide interdisciplinary training for individuals preparing to serve individuals with developmental disabilities.

The DD Act has had a noticeable effect on my own State of Vermont in which there are approximately 9,000 developmentally disabled individuals. Last year, the University Affiliated Program, or UAP, section of the DD Act provided the University of Vermont with funds to continue its program in technical assistance and training. The program provides university course credits for those who wish to work with the developmentally disabled. It further supplies resources for parents, teachers and advocates for the disabled through statewide and regional teams which provide information dissemination, summer institutes and workshops. These workshops have been particularly successful in training individuals to work with infants as well as assist in the transition from special education classrooms to integrated classroom.

The DD Act further provides funds for a State planning council which has the responsibility of establishing a State plan which must outline the major unmet service needs of persons with developmental disabilities and identify services to be provided. In 1989, Vermont's planning council provided grant money to a number of important projects. Among them were: the Employment Transition Project, which assists individuals in the transition from school to work; the Unique Housing Project, which is a cooperative attendant care home run solely by the developmentally disabled, and the Project for the Rights of Individuals with Developmental Disabilities.

As successful as these programs are, a number of unmet needs still exist. Transportation, housing and employment for the developmentally disabled are severely lacking in Vermont. So, too, are resources with which to coordinate services. Under the Act, each State, receives a Federal allotment for its planning council. Eighteen of the smaller States receive an amount determined by law which has only increased $150,000 over 10 years—an insufficient increase to keep pace with the rising needs and costs associated with caring for the developmentally disabled.

During committee consideration of the DD Act an amendment was accepted to increase the allotment for the 18 minimum funded states and territories. This amendment will allow these States to receive a $50,000 increase in their allotment upon a $6.5 billion overall appropriation. The 1990 reauthorization, like those in the past, adds responsibilities and increases the work load for State planning councils. In order to comply with the law and adequately assist those with developmental disabilities, the increase is crucial. I am glad this amendment was accepted and wish to thank the chairman and the subcommittee staff for their assistance in this matter.

Finally, the DD Act to provides funds to the Developmental Disabilities Law Project whose basic mission is to pursue legal, administrative and other appropriate remedies to ensure that persons with developmental disabilities receive appropriate care and treatment.

The law project is a completely autonomous unit, independent of any agency that provides services to persons with developmental disabilities including the State's developmental disabilities council. The project thus can fairly represent the rights of developmentally disabled even in those cases in which the State is the defendant. Such a reassurance has provided many Vermont families with developmentally disabled children a needed security and comfort in the knowledge that fair legal aid is available to them.

In Vermont, the DD Act has provided essential funds for the ongoing efforts to improve access, training, technical assistance and information dissemination for those with developmental disabilities. Reauthorization of this program puts the Federal Government firmly on the record as a strong advocate for the rights and privileges of those with disabilities. More still needs to be done, but this bill takes a firm and consistent step forward in this regard. I am happy to be a cosponsor of the bill and urge my colleagues to support it.

Mr. DURENBERGER. Mr. President, I rise to support S. 2753 the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

This bill reauthorizes and makes several important improvements to the Developmental Disabilities Assistance and Bill of Rights Act (Public Law 100-146). Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together.

The Developmental Disabilities Act assists States in ensuring people with developmental disabilities receive the services and other assistance they

need to achieve independence, productivity, and integration into the community. It is carried out through four basic program components: the basic State grants made to States for planning coordination and administration of services; the Protection and Advocacy [P&A] system to protect and advocate for the rights of persons with developmental disabilities; the University Affiliated Programs [UAP] to carry out interdisciplinary training research and demonstrations and technical assistance; and the Projects of National Significance which expands and improves priority area services.

The last reauthorization required each State to prepare a report which analyzed current status of services to persons with developmental disabilities and the barriers to achievement of independence, productivity, and integration. Because of the due date of January 1, 1990, these reports were soon labeled the "1990 Reports." The 1990 reports contributed significantly to our understanding of the state of affairs in providing services to persons with disabilities and helped shape the legislation before us today. These reports showed that this act has been successful in establishing the foundation for providing support services to persons with developmental disabilities and their families and in promoting its goal of independence, productivity, and integration. The reports also showed that there are still areas where improvement is needed. Most significantly the reports illustrated that there are still pockets of underserved and unserved individuals, and that there is still a gap between what we know to work and current practice.

The bill before us today does not make radical changes to the current act. That is not needed. Instead, it focuses on fine-tuning the act to help bring the state of practice in line with the state of the art. The Minnesota 1990 report mentions the importance of early and appropriate intervention for children with developmental disabilities. S. 2753 amends the definition of developmental disabilities by breaking down the eligibility criteria to make it more age-appropriate for infants and toddlers. I believe this change will improve our ability to reach children at an early age.

In addition, the Minnesota 1990 report mentioned the problem of unserved and underserved populations. This bill makes several changes to ensure these populations are given adequate consideration and are not overlooked.

The goal of the Developmental Disabilities Act to achieve independence, productivity, and integration has been the guiding force not only for this legislation but for all disability policy. But being independent and living fully in the community goes beyond those three words, it means inclusion into the community and being a part of the community in all aspects of life. That is why I am pleased that this legislation has followed Minnesota's lead in extending this goal to promote inclusion and independent activity of persons with developmental disabilities and to recognize the contributions of all persons with developmental disabilities at home, school, work, and in recreation and leisure.

Several States mentioned problems associated with defining the appropriate role for the Developmental Disability Council. This legislation makes several technical and clarifying changes to better define the relationship between the council and the State agency and the authority of the council over the director.

In response to limited numbers of instances where a guardian abuses or neglects an individual with a developmental disability, causing a serious threat to the health and safety of the individual, the bill gives greater authority to the P&A's to intervene. The bill also increases accountability and local discretion for the UAP's, and expands the priority categories to include behavior management and technology. Because of the extraordinary work that has come out of the Minnesota UAP Program in the area of behavior management I am particularly encouraged by this addition and the opportunity this brings to broaden our efforts in this field.

Mr. President, the continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act—just signed into law by President Bush—are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Mr. President, in preparing for this reauthorization, it was appropriate to ask about the prevalence of developmental disabilities and the needs, activities and service use of these individuals. However, in asking these questions I found that such data is not available. While such a survey or study is beyond the scope of this reauthorization, it is my hope that the Secretary will look closely at such a project to assist with program needs and with the next reauthorization cycle of this act.

Finally, Mr. President, I would like to thank my distinguished colleague, and chairman of the Subcommittee on Disability Policy, for the cooperation he has shown in working with me, the administration, and many others on this legislation. The bill before us is the product of many hours of his time trying to ensure a balanced and bipartisan effort. While there are many people in my own State who have assisted me with this bill, I would especially like to thank Colleen Wieck, Charlie Lakin, Jan Jenkins and Sue Abderholden for their tireless support and devotion to bettering the lives of all persons with developmental disabilities.

Mr. President, I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2512) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2753

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their

families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any

increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN F. SHEA FEDERAL BUILDING

Mr. LEVIN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 4035 regarding a building designation in Santa Rosa, CA, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4035) designating the Federal Building location at 777 Sonoma Avenue in Santa Rosa, CA, as the "John F. Shea Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL POW-MIA RECOGNITION DAY AND NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. LEVIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of the following House Joint Resolution 467, "National POW-MIA Recognition Day," House Joint Resolution 554, "National Law Enforcement Training Week," and that they be considered en bloc, read a third time, passed, and that their preambles be agreed to.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise today, with the distinguished Senator from Kansas and 53 of our colleagues, to urge your support and passage of a joint resolution which would designate September 21, 1990, as "National POW-MIA Recognition Day." In addition, this resolution would formally recognize the POW-MIA flag of the National League of Families of American Prisoners and Missing in Southeast Asia as the symbol of our Nation's concern and commitment to Americans still unaccounted for in Southeast Asia.

The fullest possible accounting of Americans still missing in action is, and must remain, a priority for our Government and our people. This priority has been expressed in prior years by the U.S. Congress. The joint resolution would continue the focus of this ongoing priority by calling upon the American people to observe September 21, 1990, as our Nation's day of recognition to those still missing.

The POW-MIA flag has become a tangible emblem of our national commitment to those still missing. In addition to designating a day of recognition for our MIA's, the joint resolution would also acknowledge the POW-MIA flag by officially designating it as the symbol of our Nation's concern and commitment.

I urge my colleagues to join in passage of this important legislation as a means of showing our continued commitment to the 2,203 Americans still missing in Southeast Asia. In doing so we also stand in support of their families and all Americans who join us in our hope to see the return of any American service members still held prisoner as well as the fullest possible accounting of those still missing.

MEASURES INDEFINITELY POSTPONED

Mr. LEVIN. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 327 and Senate Joint Resolution 288, the Senate companions, and that they be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CARL D. PERKINS VOCATIONAL APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on H.R. 7 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 2, 1990.)

Mr. PELL. Mr. President, I am extremely pleased to be able to bring before the Senate the House-Senate conference report on H.R. 7, the reauthorization of the Carl D. Perkins Vocational Education Act. As the chairman of the conference, I want to express my deepest appreciation for the cooperative work that emanated not only from both Houses of Congress but also from both sides of the aisle. Also, I would be very remiss if I did not acknowledge the many long, hard hours of work of our respective staff members.

The product of our deliberations is an excellent one, and I can commend it to my colleagues without reservation. The conference report, first and foremost, reflects the concern that dominated the Senate's work in vocational education. That concern was, basically, recognition of the overwhelming need to make sure that vocational education and training in America is of the highest quality possible, and that its services should be focused first on those who need them most. As I have said on many occasions, to do anything less with the Federal dollar is not only to cheat the people who seek and need these services but also to cheat our Nation and its ability to compete on an equal footing in the international marketplace.

I am particularly pleased with the provisions of the conference report because of the benefit it will bring to my home State of Rhode Island. The Federal vocational education dollar is very important to Rhode Island. It supports critically important education and training for jobs in every part of our State. The agreements embodied in this report will mean the continuance of more than $4 million in vocational education assistance to Rhode Island. And, if this new act were fully funded, Rhode Island could receive as much as $6 million a year.

At the beginning of our work well over a year ago, I stressed five goals that I thought must be addressed in reauthorization. They were to target the money to those who need Federal help the most, stress a linkage between secondary and postsecondary education, integrate academic and vocational education, make sure that our programs are state of the art, and adhere to the principle that what we do is provide not just job training, but vocational education and training. We do not simply prepare a person for a job; we prepare them for a lifetime.

As was true with the original Senate legislation, the conference report directly addresses those goals, and I would like, therefore, to summarize some of the more important provisions of the conference agreement as they relate to the work of the Senate in this area.

First, for the first time in Federal vocational education history, we would send money directly to local education agencies or area vocational schools serving those agencies. We would do so on the basis of a modification of the chapter 1 formula in the Elementary and Secondary Education Act. Further, we would stipulate a minimum grant, which will help avoid a frittering away of the Federal dollar.

Second, we require that the money flowing to these areas would serve four important populations: the economically disadvantaged, the disabled, the limited English proficient, and the equity needs and concerns of training women and men in nontraditional occupations.

Third, of particular interest to me, we would consider the corrections education agency as a local education agency and would also continue the 1-set-aside in current law. We also mandate a corrections education office within the Department of Education. These steps, we hope, will mean a continued flow of funds to provide education and training to end the horror of the revolving door from prison to society and back to prison.

Fourth, we stipulate that funds at the local level would be spent on program improvement, services for the targeted populations, and the integration of academic and vocational education.

Fifth, we would provide a strengthened emphasis on the importance of guidance and counseling. This means both prevocational counseling and comprehensive guidance and counseling when the student is pursuing a

course of study in vocational education. It means not only counseling for jobs or postsecondary education after graduation from secondary school but also part-time and summer job counseling and assistance while the student is in secondary school.

Sixth, we stress the importance of the Federal dollar in terms of upgrading vocational education at every level. The final conference agreement does not reflect as strong an emphasis upon secondary vocational education and training as was contained in the Senate legislation, but our provisions and the new provisions for sending money directly to local education agencies make clear our position that programs at the secondary level must be the best we can provide.

Equally important, we target the postsecondary education funds to institutions where the need is greatest. And, we enable both secondary and postsecondary education to serve the needs of adults who seek vocational education training and retraining.

Seventh, we retain and protect the sex equity programs and the programs for single parents, displaced homemakers and single pregnant women. These programs have produced remarkable results, and I am very pleased that we have been able to continue them for at least another 5 years.

Eighth, we provide the State a new role and new powers in monitoring and evaluating programs at the local level. And, we give the Secretary of Education more authority in the approval or rejection of State plans.

Ninth, we acknowledge that the State plays a critical role in curriculum development, in teacher and administrator training and retraining, and in the support of student vocational clubs. We continue Federal support for those important efforts.

Tenth, we provide new support for the tech-prep concept linking secondary and postsecondary education, but we go beyond that as well. We include not only postsecondary education in the linkage but also apprenticeship training.

Mr. President, these are highlights of the major changes embodied in the conference report that I bring before the Senate. The conference report makes significant changes in other areas as well, in such as the collection of data on vocational education, vocational education research, and strengthening the relationship between vocational education and private industry, business and labor.

I believe that what I said about this legislation when we originally brought the Senate bill to the floor bears repeating today. Make no mistake about the importance of the work we do in this area. The Federal vocational education dollar accounts for only about 10 percent of all vocational education spending. But it is without question the engine that pulls the train.

The Federal Government has been involved in vocational education since 1917 and passage of the Smith-Hughes Act. We are no strangers to the field and to just how critical a role we play. As we look ahead, Mr. President, we can see clearly that world economic leadership in the future will probably focus upon three areas: Japan and the nations of the Pacific rim; Europe united after 1992, and the United States, with Canada after 1992. Where we eventually rank among those three will depend directly upon our ability to compete, and that ability depends, in turn, upon the quality of the education and training provided our people. If we are to have a world-class work force, we must have a world-class education. The conference agreement we bring before the Senate today not only reflects that need but also charts a legislative course that will keep America on the cutting edge of international competition.

I urge my colleagues to join me in approving this report.

Mr. COCHRAN. Mr. President, I am pleased to have served as a conferee on this bill. As a member of the Subcommittee on Education, I had an opportunity to work with Chairman PELL, Senator KASSEBAUM, and other members of the subcommittee in developing this legislation, which I think is one of the most important education bills to come before the 101st Congress.

I know of no legislation that better channels and targets available resources to equip our Nation with a qualified work force and to make us more competitive in the developing global economy.

If I could sum up this bill into a single message, it would be, "our children will now have an opportunity to make the most of their lives, to become partners in a world class work force, strengthening the Nation and enriching all of our lives in the process."

We did not take a timid approach in this bill. We made a realistic assessment of student trends, and business and industry needs, and shaped a new vocational program that is high technology in nature, provides students with a strong basic skills foundation, focuses training on job skills needed by local communities and encourages involvement by business and industry.

The conference agreement successfully melds the House and Senate vocational bills to better target Federal vocational funds to those in greatest need and to infuse traditional vocational education with a new emphasis on state-of-the-art marketable skills.

One highlight of this legislation I particularly endorse is the tech-prep program, which couples the last 2 years of high school with the first 2 years of post secondary education. The model tech-prep programs developed in Mississippi and other States are important links to career opportunities for young people at risk of dropping out of school or who might otherwise not go to college. Sometimes referred to as "2-plus-2," tech-prep has become the cornerstone of this reauthorization legislation. To fund the program, the conference agreement authorizes $180 million to be distributed to States based on the vocational formula.

Another important provision of the bill authorizes grants to States to improve and expand vocational programs in areas with highest concentrations of disadvantaged students. The bill authorizes $100 million to be distributed to States based on the State's allocation under the chapter 1 concentration grant formula. Funds are them distributed to local school districts or area schools in accordance with the concentration grant formula. These supplemental funds are to be used by the local school district or area school to improve facilities, update equipment, and conduct other program improvement activities such as teacher training, curriculum development, or development of innovative approaches to provide better prepared entry level workers.

The bill strengthens the role of the State vocational councils, which serve as important links to the private sector. The conference agreement also encourages greater involvement by trade organizations, student clubs, and school board members. In addition, State boards are required to consult with the State council in developing the State's vocational education plan. State councils are now given authority to review State plans and to register formal objections.

Also included, at my request, is a study of the vocational education funding formula, which has not been reviewed since the Federal vocational education program was first enacted in 1963. The study will be submitted to Congress indicating whether the current formula sufficiently targets funds to States having the greatest need for Federal assistance and examining alternative methods for directing Federal funds to States to better meet the objectives of the act.

Another important provision allows schools and colleges the flexibility to use equipment purchased for Federal vocational programs for alternative educational purposes, as long as the alternative use does not interfere with or detract from the vocational program.

With the adoption of this conference agreement, we show our determination to produce a better educated group of students equipped to ensure our Nation's competitiveness in the years ahead.

Mr. President, I commend the committee and our staff members for their hard work, especially our two leaders, Chairman PELL and Senator KASSEBAUM. We can all be proud of this legislation. I urge the Senate to approve it.

Mr. DURENBERGER. Mr. President, I rise today to support the conference report on the Carl D. Perkins Vocational and Technical Education Act. I would like to compliment the members of the conference committee for their work on this legislation. I think the bill before us today reflects an earnest effort by both sides to strengthen the vocational-technical education system in this country and to provide the resources necessary to carry us into the 21st century.

It is unfortunate that vocational-technical education is often overlooked in the realm of our overall educational system because vocational-technical education is the keystone for providing the job-related training and education that is so critically important if we are to maintain and improve our economic competitiveness around the world.

Demographics tell us that 85 percent of the work force at the turn of the century are already in the work force today. We also know that the skills of a large number of these workers are becoming obsolete or will soon be made obsolete by changes in technology. Workers, threatened by dislocation due to plant closures, industrial relocation, and increasing technology will become more dependent on vocational-technical education for the training and retraining they need to keep their skills in line with changing technology.

It is for this reason that I applaud the conferees in working out an agreement that eliminated the Senate proposal that would have required a split between postsecondary and secondary institutions. I fought against this proposal when that bill was before the Senate and I believe the decision by the conference committee to retain State flexibility in determining the mix of funds was a wise one. States continue to be the leaders in education policy and are just not beginning to implement the comprehensive reforms necessary to improve the faltering education system in America today. The needs of each State are different and we in the Federal Government need to support these efforts but should not be dictating a structured plan of reform based on our own opinions of what is needed.

Again, Mr. President I want to thank all those on the conference committee for the work they have done to come up with a balanced reauthorization that will provide the tools for us to move forward into the 21st century. I urge support of the conference report.

Mr. HATCH. Mr. President, this bill is the result of a lot of hard work and compromise on both sides of the aisle. I appreciate the rapid manner in which the Senate and House were able to resolve the issues in the two bills.

This reauthorization takes into account many of the changes which have been proposed as a result of the hearings held throughout the United States and the studies conducted by the National Assessment of Vocational Education.

I am pleased that, in the final compromise, we were able to maintain the State councils for vocational education. I believe these councils serve an important role in vocational education in that they provide a mechanism for the exchange of ideas and information with the private sector and other community groups. I am also pleased that we were able to continue to provide the States with flexibility in deciding how much of the funds went to secondary versus postsecondary training.

The impact of this legislation on increasing opportunities for women in the job market has been very significant. Many displaced homemakers who have suddenly had to be the primary source of support for their families have been trained as a result of the funds available through this act. I am pleased that both Houses recognized the importance of these programs and maintained them in this legislation.

Changes have been made in this legislation to ensure that special populations will be served within the overall programs available to all students. Guarantees have been built into the State and local plans to ensure such access. The bill is aimed at strengthening existing program quality for special populations, as well as the student body at large. I think this approach will result in persons with disabilities receiving better training as they enter the work force.

The Carl Perkins legislation is some of the best education legislation that this body has produced. In the last few years, the national understanding of the value and significance of vocational education has grown tremendously. No longer is there a stigma attached to the idea of vocational education. People who are trained in fields typically referred to as vocational are accorded the respect and admiration that is appropriate for individuals with such technical and complex skills.

I urge my colleagues to support this conference report. Vocational education will be enhanced as a result of the passage of this legislation. Students enrolled in the programs outlined will benefit from the new assessment criteria and new program requirements which are integral parts of this legislation. I am proud to be a cosponsor of this far reaching legislation and look forward to hearing from my fellow Utahns about the many successes of this new and better legislation.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is considering the conference report on H.R. 7, legislation to reauthorize Federal vocational education programs. It has been a pleasure to work with the chairman of the Education Subcommittee, Senator PELL, and other members of the conference committee in putting together a final bill.

Persistent concern about our ability to compete in the international market and to maintain our standard of living has increased our awareness of the need to train skilled workers.

It is unfortunate that vocational education is too often regarded as a stepchild of our overall education system. In fact, we should be taking quite the opposite view. Strong vocational programs are a critical component of the economic machinery which will assure our continued world leadership and prosperity.

Federal support plays a small, but critical, role in vocational education. It enhances substantial State and local efforts in this area by encouraging broad program improvement activities and targeting aid toward populations which might otherwise be neglected.

The bill we are considering today represents a significant departure from the current structure of Federal vocational education programs. The House and Senate bills took somewhat different paths to a common goal, which is succinctly expressed in the statement of purpose included in the conference bill:

> It is the purpose of this Act to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society.

The legislation developed by the conferees will, I believe, give new vitality to efforts to assure that the workers we train will measure up to the standards we need and expect.

Specifically, the bill increases flexibility through the elimination of most set-asides while maintaining assurances that special needs are met. It recognizes that expanding the access of disadvantaged populations is meaningless unless that access is provided to high quality programs.

It maintains a State leadership role in areas such as teacher training and curriculum development, which are most effectively conducted on a statewide basis. At the same time, it strengthens local efforts by sending funds directly to local school districts and postsecondary institutions on a formula basis. As provided in the

House bill, States will continue to determine how they will divide funds between secondary and postsecondary institutions.

It was not possible to devise a formula by which to allocate funds to area vocational education schools, which vary considerably in structure from State to State. Recognizing the importance of area schools in offering quality vocational programs, the conferees established special procedures by which funds allocated to a local educational agency may be transferred to area schools. I am hopeful that these procedures will result in a fair allocation of funds and will be taking particular interest in the implementation of these provisions.

The legislation emphasizes the need for better coordination of vocational education programs through the establishment of tech-prep education programs, which link the last 2 years of high school with 2 years of postsecondary training.

It also stresses the importance of the linkage between academic and vocational training, attempting to dispel the notion that the two are somehow at odds with one another. In fact, the bill requires that Federal funds be used in programs which integrate academic and vocational education. At a time when the computer is the main tool of the secretary as well as the auto mechanic, technical competence demands a strong command of academic subjects.

The legislation attempts to assure that Federal assistance is provided in grants of sufficient size to make an identifiable impact. Concentrating assistance is essential to our efforts to evaluate the impact of Federal support and to promote more generous levels of that support. The conferees have agreed to a $15,000 minimum grant for secondary school recipients and a $50,000 minimum grant for postsecondary recipients in an attempt to serve this purpose.

Strong emphasis is also placed on accountability for results. States and localities are required to develop standards and measures by which to determine program performance in areas such as job or work skill attainment, retention in school, and learning and competency gains. In instances in which local programs do not make progress in meeting these standards and measures, they must develop local improvement plans.

Finally, separate vocational education councils are maintained in order to assure the continued input of the business community.

The changes we are seeking in Federal assistance to vocational education programs will, I believe, inspire reforms which are needed to assure a skilled and adept work force. Quality vocational training programs are truly key to the future we hope to build for ourselves and our children. Our sights are on a new century in which both technological and demographic changes will profoundly alter the world in which we live. I hope this measure will enhance our capability to address these challenges.

I would also like to commend and recognize the hard work done by members of my staff and other staff of the subcommittee on this bill. They have all put in very long hours, and I appreciate all that they have done.

Many thanks to Susan Hattan, Becky Rogers Voslow, and Lydia Spencer of my staff; David Evans, Ann Young and Merry Richter of Senator PELL's staff; Laurie Chivers with Senator HATCH; Terry Hartle and Rusty Barbour with Senator KENNEDY; Pam Kruse with Senator JEFFORDS; Doris Dixon and Lee Sanders with Senator COCHRAN; Kent Talbert and Deanne Folse of Senator THURMOND's staff; Joan Hogan Gilman with Senator DODD; Cheryl Smith, Judy Wagner and Brian Kennedy with Senator SIMON; Cheryl Birdsall with Senator METZENBAUM; and Karen Calmeise with Senator MIKULSKI. A special thanks as well to Mark Sigurski with the Senate Legislative Counsel Office.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL TANKER NAVIGATION SAFETY ACT

Mr. LEVIN. I ask unanimous consent that Calendar No. 196, S. 1461, the oil tanker safety bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection it is so ordered.

CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

Mr. LEVIN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 760, S. 1913, the child restraints bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1913) to require the use of child restraint systems on commercial aircraft.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and inserting in lieu thereof other language.

Mr. BOND. Mr. President, I am very pleased that the Senate has approved this legislation. I want to thank Senator HOLLINGS, chairman of the Senate Commerce Committee and Senator DANFORTH, the ranking member, along with the chairman and ranking member of the Aviation Subcommittee, Senator FORD and Senator MCCAIN, for their support of this bill. I particularly appreciate the fast action by the committee in reporting S. 1913 last week.

I have spoken on the floor about this issue several times and my colleagues know how strongly I feel about it. For 9 years I have been trying to convince the FAA to amend its policy with regard to child safety seats. Current policy gives airlines the discretion to allow or prohibit the use of child safety seats for children under the age of 2. As a result, most toddlers and infants travel in a parent's lap. And when they do, they face a much higher risk of injury or death because the force of a crash or even severe turbulence completely overwhelms the parent's ability to restrain him.

Why do we require restraints for an infant's family—his parents and brothers and sisters—but not for him? Why are airlines required to tie down and secure every single item in the cabin before takeoff—luggage, liquor, food, and coffee pots—but not babies? I find it outrageous that this helpless group of travelers is denied the same protection as adults and inanimate objects.

The FAA is in the process of considering changes in its current policy but I am not hopeful that the agency will issue a mandatory seat rule. That is why I feel all the more strongly about the urgency of my bill.

Finally, let me address the issue of cost. There are two major issues—the cost of a ticket for the child under 2 and the cost of a child safety seat. My legislation leaves the decision on fares up the airlines. I do not want to raise traveling costs for families—they are already high enough. I believe that the airlines will make every effort to keep fares reasonable because they want families to keep flying with them. Many airlines currently offer discounted fares for children over 2 and they could simply extend those fares to include children under 2. In addition, many airlines allow parents who bring a safety seat to use a vacant seat free of charge. I am hopeful that they will continue this practice.

With regard to the cost of a safety seat, most parents already have one because all 50 States require children under 2 to use one in the car. Fortunately, most seats manufactured since 1985 are certified for both auto and air travel. Parents simply have to take the

seat from the car to the plane. They will then be able to use the seat at their destination when they rent a car or borrow grandmother's.

It is long past due for a mandatory seat rule. I thank the Commerce Committee members again for their support and look forward to fast action by the House and enactment by the President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1913) was passed, as follows:

S. 1913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT.

(a) IN GENERAL.—Section 601 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421) is amended by adding at the end the following new subsection:

"(g) CHILD RESTRAINT SYSTEMS.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring the use of child safety restraint systems approved by the Administrator on air carriers providing interstate air transportation, intrastate air transportation, and overseas air transportation. Such regulations shall establish age or weight limits for children who are to use such systems.".

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting at the end of the matter relating to section 601 the following new item:

"(g) Child restraint systems.".

SEC. 2. INTERNATIONAL STANDARD.

It is the sense of the Congress that the United States representative to the International Civil Aviation Organization should seek an international standard to require that passengers on a civil aviation aircraft be restrained on takeoff and landing and when directed by the captain of such aircraft.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEVISION DECODER CIRCUITRY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 720, S. 1974, the Television Decoder Circuitry Act of 1990.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1974) to require new televisions to have built-in decoder circuitry.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Television Decoder Circuitry Act of [1989"] *1990".*

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television [could] *will* provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television [could] *will* provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) Closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among out Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that [same decoder circuitry] *closed-caption decoding capability* to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

[DISPLAY CLOSED-CAPTIONED TELEVISION]

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.".

[SHIPPING OR IMPORTING]

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. [(1)] *(a)* Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by [adding] *inserting immediately* after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed-captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. [Five years from the date of promulgating the original rules required by this section, the Commission shall evaluate compatibility issues and advancement in television technology and shall take any action it deems necessary to amend such rules so as to ensure that such decoder chip circuitry is capable of continuing service to closed-caption consumers regardless of new broadcast technologies.] *As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers.* This subsection shall not apply to carriers transporting such apparatus without trading it.".

[(2)] *(b)* Section 330(c) of such Act, as redesignated by [this Act,] *subsection (a) of this section,* is amended by deleting "and section 303(s)" and inserting in lieu thereof ", *section* 303(s), and *section* 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on October 1, 1992.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

AMENDMENT NO. 2513

(Purpose: To extend the effective date of sections 3 and 4)

Mr. LEVIN. In behalf of Senator INOUYE, I send to the desk a technical amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. INOUYE, proposes an amendment numbered 2513.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 14, strike "October 1, 1992" and insert in lieu thereof "July 1, 1993".

Mr. LEVIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2513) was agreed to.

Mr. LEVIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, today I rise in support of S. 1974, the Television Decoder Circuitry Act of 1990. This bill, referred to as the Decoder Act, was introduced by Senator HARKIN and is cosponsored by 14 Senators, including myself. This legislation before us represents the efforts of many Senators on the Commerce Committee, and I want to thank Senators DANFORTH, MCCAIN, and KASTEN for their assistance. I especially want to thank Senator HARKIN for his initiation of and persistence on this measure, for without the Senator's unremitting conscientious drive, the Decoder Act might never have been conceived.

S. 1974 is supported by the deaf, hearing impaired, and hard of hearing community, literacy groups, and the educational community. I also want to thank the Electronic Industries Association and representatives of television manufacturers for their assistance in the development and support of this measure.

For nearly 20 years, the Federal Government and the Public Broadcasting Service have helped almost 24 million deaf and hard-of-hearing Americans receive televised communications through closed captioning services. The National Captioning Institute, or NCI, which was created by Congress in 1979, and the private sector have been instrumental in expanding this special service to these citizens.

Because of these efforts, Mr. President, today there are nearly 140 hours of closed captioned programming each week; there is captioning on cable and on videocassette movies; and there is real time captioning that provides captioning services to live and special events.

Currently, the only way to access this service is through a separate decoder unit that is attached to a television set. But because of the expense, the stigma, and the technical barriers of these units, a great many people in need of this service simply are not making use of them. And there, Mr. President, lies the rub.

The price of these separate decoders is $160 to $200, which is often too expensive for those persons that could benefit from closed captioning. During our subcommittee hearing, we learned that many disabled Americans between the ages of 16 and 64 are not employed, and those who are employed are often working in low paying jobs. The cost of decoders is also a deterrent to senior citizens with a hearing loss, the majority of whom have annual incomes less than $25,000.

Moreover, the stigma attached to purchasing decoders weighs heavily on the minds of deaf and hard of hearing people—and especially the elderly.

Last, deaf and hard-of-hearing people—again, primarily the elderly—are intimidated by the complex instructions for connecting these devices to their television sets. When one has a cable service or a VCR, or both, attached to his or her TV, the installation of these devices becomes even more cumbersome.

Producers of close-caption programs are concerned that the low numbers of decoders purchased will serve as a disincentive for expansion of closed captioning. It is very expensive to produce captioned services—about $3,000 and 20 to 30 man-hours to close-caption a 1-hour program. Absent an increase in viewership, they will wonder whether it makes economic sense to continue close captioned programming. I would consider any rollback in this service a disaster.

It would be a disaster, Mr. President, because in addition to the 24 million deaf and hard-of-hearing citizens who would benefit from the passage of this legislation, there are others who would benefit from the expansion of closed caption services. Today in America, there are 27 to 29 million American adults who are functionally illiterate; millions of children who are learning to read; and 3 to 4 million people learning English as a second language. Some of these persons already benefit from closed captioning. If we in the Congress can find the right answer and act upon it. Then we can ensure that others have access to these services.

Senator HARKIN, the other cosponsors, and I believe S. 1974 provides the right answer. It requires decoder circuitry to be built into all new television sets with screens 13 inches and larger that are manufactured in or imported into the United States. This circuitry, which must conform to FCC display standards, would display closed captioned television programs, thereby expanding the accessibility of closed caption technology to serve the needs of the deaf and hearing impaired and others. The bill also charges the Federal Communications Commission [FCC] with ensuring that closed-captioning services be available to the public as new technologies are developed. In response to concerns raised by the Electronics Industry Association, I am offering an amendment today to extend the effective date of this legislation 9 months, from October 1, 1992, to July 1, 1993.

This legislation does not require that a specific decoding chip or module be installed in television sets. Instead, the act permits flexibility on the part of the manufacturers to research and develop this technology, as long as it meets any display criteria established by the FCC. In addition, the committee does not intend to require the retrofitting of this circuitry in television sets that are available for sale on the date this legislation takes effect.

While this legislation will result in a minimal increase in the cost of television sets—$5 to $20—I believe that spreading costs over all or most buyers of TV sets is quite logical. First, the cost is not that significant, especially when this circuitry is produced in mass quantities. Second, by increasing access to this service, it will help bring this very large segment of our society into the mainstream. And third, there are various features on TV sets sold today that are used by only a small percentage of buyers—yet, we all pay for them.

In sum, Mr. President, S. 1974 will eliminate the need to purchase the cumbersome separate decoder units; significantly reduce the cost to consumers to receive closed captioning; make closed captioning more widely available to those desiring the service; and create market incentives for broadcasters to invest in and provide more closed captioned programming. I believe it is incumbent upon us to approve this legislation today.

Mr. HOLLINGS. Mr. President, today I also rise in support of S. 1974, the Television Decoder Circuitry Act of 1990. The Decoder Act was introduced by Senator HARKIN and is cosponsored by 14 Senators, including myself. It has strong support among the deaf, hearing-impaired, and education and literacy advocates. This bill also has the support of the Electronic Industries Association and television set manufacturers.

S. 1974 is designed primarily to assist the approximately 24 million deaf, hard-of-hearing, and hearing-impaired Americans by guaranteeing the availability and expansion of closed-captioned programming. To accomplish this worthy goal, the act requires the

installation of low cost decoding circuitry in new television sets with screens 13 inches and larger. This circuitry will eliminate the need for individuals, who will benefit from the expansion of captioning services, to purchase expensive and awkward separate decoding units. Finally, the act makes it the responsibility of the Federal Communications Commission [FCC] to ensure that closed-captioning services are available to the public as new technologies are developed.

In the June Communications Subcommittee hearing on the Decoder Act, representatives of the television manufacturers voiced their concerns about the initial language of the bill, which limited the decoding capability to a specific technology. They were concerned that this requirement would thwart competitiveness in research, development, and production of decoding technology. The bill before us today does not restrict manufacturers to one technology. It permits flexibility in the development of decoding technology. I believe S. 1974 addresses the industry's concerns without obstructing the goal of expanding captioning services.

Mr. President, in addition to our Nation's deaf, hard-of-hearing and hearing-impaired citizens, various experts believe that closed captioning benefits 27 to 29 million Americans who are functionally illiterate; 3 million persons in the United States who are trying to learn English as a second language; and millions of our children and grandchildren who are learning to read. In short, it is now becoming apparent that closed captioning can be used as a tool to educate our young citizens and as a weapon to fight the cancerous illiteracy suffered by adults.

The educational benefits of closed captioning are especially interesting to me as one who has worked long and hard to develop a modern educational system in South Carolina. With the implementation of a technical school system during my years as Governor and the implementation of the Education Improvement Act by former Gov. Richard Riley, South Carolina's education reforms have become a model for the Nation. Still, too many of our resources are directed toward remedial reading courses in all levels of our education system, and we are not doing as well in economic development and economic competitiveness as we should because of the high rate of illiteracy in our work force. It is not just a problem in South Carolina; it is a national problem. Now, I am not advocating that we do away with books and buy more TV's with decoder circuitry. But if by expanding this educational tool called closed captioning we can help our children, our grandchildren, and our illiterate adult population learn to read, then by all means let us not wait to act on this measure before us today.

Mr. President, I take this opportunity to recognize the hard work of Senator HARKIN, the author of S. 1974, in introducing the Decoder Act to benefit the disabled citizens of our country. He is truly a leader in this area. I also commend my colleague and chairman of the Communications Subcommittee, Senator INOUYE, who has been instrumental in the passage of legislation such as this one to ensure that the disabled have access to our ever-advancing communications network.

In closing, Mr. President, I believe we have a fine piece of legislation before us. During my many years of public service in South Carolina and the U.S. Senate, I have been strongly committed to giving all Americans the opportunity to be full participants in our society. I have brought that commitment to my chairmanship of the Commerce Committee and have made it the continued goal of the committee to ensure that all American citizens have access to and can enjoy the benefits of what is a public good—our Nation's airwaves. That goal and philosophy are the foundation of this measure, and I know are shared by all of us. Therefore, I urge my colleagues to support this important legislation.

Mr. HARKIN. Mr. President, I rise in support of S. 1974, the Television Decoder Circuitry Act, which I was proud to introduce in this session of Congress.

On July 26, 1990, the Americans With Disabilities Act became the law of the land. The ADA is no less than the 20th-century emancipation proclamation for people with disabilities. It sends a clear, unequivocal message to the world that people with disabilities are entitled to be judged on the basis of their abilities and not on the basis of ignorance, fear, and prejudice. From now on, our Nation will no longer construct or devise barriers that prevent people with disabilities from enjoying full, effective, and meaningful participation in the economic, social, political, and cultural mainstream of American society.

The ADA is without exaggeration the most critical legislation affecting people with disabilities ever considered by Congress. It will provide access to jobs, services provided by State and local governments, public accountants, transportation, and telecommunications.

However, a very important issue was not covered in the ADA—broader access to closed-captioned television broadcasts. Today, television has become a pervasive and integral vehicle for sharing information in American society. It is not only an entertainment medium. Television provides a vital link to the world, providing news, emergency, and educational programming. Unfortunately, many Americans with hearing loss are denied full and equal access to this critical source of information. The promise of full integration into the mainstream of society will not become reality for the deaf and hard of hearing community until equal access to the television is assured.

With the availability of closed-captioned television programming, deaf and hard of hearing individuals do have access to information provided via television. Unfortunately, the high cost of separate stand alone decoders has created an enormous gap between the numbers of people who can benefit from television closed captioning and the number of people who actually view closed captioning.

For equal access to television broadcasts, Americans with hearing loss have to purchase a television set and a decoder attachment that costs an additional $180. Many deaf and hard of hearing individuals, including elderly people on fixed incomes, are unable to afford the additional expense for equal access to television. I might add that many senior citizens and other people with hearing loss are intimidated by the complex instructions for connecting the decoder to their televisions. Howard "Rocky" Stone, executive director of Self Help for Hard of Hearing People, offered the following testimony on behalf of S. 1974 before the Subcommittee on Communications:

> One of our members, an intelligent, active person at age 70 told us, "I wasted $98 on two servicemen trying to get my decoder 3000 hooked up. The first one couldn't figure out the hook up with all the TV attachments. The second one got the VCR in backwards, so I could not record the captions. Finally, an electronics expert, who is also my neighbor, got everthing straightened out. This legislation would eliminate that kind of frustration."

Senior citizens have also been reluctant to purchase a separate decoder because of the stigma they attach to that purchase.

The Television Decoder Circuitry Act addresses this situation by requiring that by July 1, 1993, all televisions with screens 13 inches or larger will have built-in decoder circuitry to display closed-captioned television transmission. The cost of this new technology is estimated to be $3 to $5 in mass production. The built-in decoder circuitry will greatly increase the audience that can be served by closed-captioned television by dramatically reducing the cost of the decoder circuitry needed to receive closed-captioned television. Further, an increased market will provide significant incentives to the television broadcasting industry to provide more closed-captioned programming.

In a letter to the Commission on Education of the Deaf, the American Broadcasting Co. [ABC] said:

> If decoders were more widely used and viewership were to grow, the marketplace

can be relied on to increase captioning because more viewers would be reached at a decreased per capita cost. Increased decoder ownership—not just more captioning—is required for a strong, self-sustaining captioning service.

In short, this legislation is the critical next step in establishing a self-sustaining closed captioning industry.

THE NEED FOR LEGISLATION

During this decade, the amount of closed-captioned television programming has increased dramatically. Only about 16 hours of prime time television was closed captioned in the early 1980's. This year, 100 percent of prime time television is closed captioned. But the maintenance and growth of self-sustained closed-captioned television programming depends on the wide use of decoder technology.

Since the separate decoders have been on the market beginning in 1980, fewer than 300,000 have been sold. The Commission on the Education of the Deaf pointed out that the low number of decoders purchased by consumers has resulted in a lack of commercial incentives for private funding of captioning services.

Witnesses testified that this lack of market incentive has resulted in many television programs outside of prime time and VCR movies not being closed captioned. Only 90 out of 1,400 broadcast affiliates close caption local news programs. During recent national disasters, such as Hurricane Hugo and the San Francisco and Los Angeles earthquakes, local news broadcasts failed to provide captions to accompany their reports. Neil Pilson, president of CBS Sports, wrote the following to me:

> As a businessman and broadcaster, I am concerned about this imbalance between the cost of captioning programming and the very limited number of viewers. This gap makes it difficult to justify the expansion of captioning beyond those widely-viewed kinds of programming being captioned today. Furthermore, some in the industry who have demonstrated their growing support of captioning through funding may begin to reevaluate their commitment and, I fear, gradually reduce that commitment.

THE POTENTIAL AUDIENCE

The potential audience for closed-captioned programming is immense. Over 24 million people in the United States are deaf or hard of hearing. Gallaudet University, the National Center for Law and the Deaf, the National Association of the Deaf, Self Help for Hard of Hearing People, the Council of Representatives [COR], and many other organizations representing individuals with hearing loss vigorously support this bill.

Over 40 percent of older Americans have significant hearing loss. The 32 million members of AARP, the American Association of Retired Persons, support this bill. The 4½ million members of the National Council of Senior Citizens strongly support S. 1974.

In developing this legislation, I found that individuals with hearing loss are not the only individuals who will benefit from closed-captioned television. There are about 27 to 29 million adults in the United States who cannot read. They will benefit from built-in decoder circuitry and closed captioning, according to the National PTA, the National Education Association [NEA], and the Literacy Volunteers of America—the organization that Mrs. Barbara Bush has worked with so effectively—as well as many other education and literacy organizations.

We also found that there are 3 to 4 million immigrants in the United States learning English as a second language. There are 18 million children learning to read in kindergarten through third grade. Educational experts tell us that all of these individuals will benefit significantly from greater access to closed-captioned TV broadcasts. Several studies have indicated that exposure to closed-captioned television improves students' word recognition, reading comprehension, and language retention skills. The same studies showed that closed-captioned broadcasts enhance the students' motivation for learning. Mr. President, the June 6, 1990 issue of Education Week describes the effective use of captioned television in teaching reading. The article documents the successful use of captioned television in teaching elementary school students learning English as a second language. According to the Education Week story, "40 percent of decoder sales in recent years have been to Hispanic-American and Asian-American people."

PROVISIONS OF THE BILL

Mr. President, the technology is available to ensure a significantly increased market for closed-captioned television that will benefit people with hearing loss, adults with literacy problems, children learning to read, and people learning English as a second language. That technology would enable decoder circuitry to be built right into new television sets at a minimal cost by July 1, 1993. Several companies are currently working on this technology, and have indicated that this built-in decoder circuitry chip can be built into televisions in mass production for as little as $3.

This legislation is intended to encourage competition for the development and use of built-in decoder circuitry. Such competition will also reduce the cost of this technology. The Consumer Federation of America in endorsing this legislation pointed out it "would provide easy and affordable access to closed captioning for all Americans."

This bill would require that all new television sets with screens 13 inches or larger, whether manufactured in the United States or imported for use in the United States, be equipped with this built-in decoder circuitry designed to display closed-captioned television transmissions. The bill would further require the Federal Communications Commission to promulgate rules providing performance and display standards for this built-in decoder circuitry.

These standards must conform to the established signal and display specifications referenced to in this legislation to insure that television viewers can universally receive and read closed captioned captions. These display specifications insure that the intent of the program producer, captioning agency, and program distributor are conveyed properly to the viewer. The display specifications define such things as placement, color, font, and mode of the captions. These standards are essential to insure that caption producers will be able to create captions that are readable regardless of which television set or decoder circuitry is used. Any equivalent specifications must insure that television viewers can universally receive and read closed captions with the same clarity, consistency and to the same extent as such viewers would be able to receive and read closed captions produced in accordance with the PBS engineering report as amended.

Mr. President, this bill provides a unique opportunity for the Congress to finally provide equal access to television broadcasting for millions of Americans at an insignificant cost. Congress mandated in the Communications Act of 1934 that communication services be "made available, so far as possible to all the people of the United States." With the passage of the Americans With Disabilities Act and the requirements of a nationwide telephone relay system, we are finally after 55 years about to achieve universal telephone service for deaf people. But for many Americans we have still not achieved universal service to television. This legislation will offer that equal access. This legislation will, as Sy DuBow, legal director of the National Center for Law and the Deaf, testified in the Senate hearing, "making sure that disabled Americans and those on the bottom of the socio-economic ladder have access to the benefits of our communication system."

Mr. President, the Television Decoder Circuitry Act has enjoyed strong bipartisan support. S. 1974 is cosponsored by Senator HOLLINGS, chairman of the Committee on Commerce, Science, and Transportation. It is also cosponsored by Senator INOUYE, chairman of the Subcommittee on Communcations. Other distinguished cosponsors include Senators MCCAIN, EXON, BENTSEN, GORE, KERRY, PRESSLER, BURNS, KASTEN, DOLE, and

SIMON. The deserving constituencies served by this legislation and their families will long remember the leadership of these Senators.

I especially want to thank Senator INOUYE and Senator MCCAIN for all their outstanding work and leadership on this legislation, and the excellent assistance of Toni Cook and Hap Conners on the subcommittee staff and Mark Buse of Senator MCCAIN's staff. I also want to thank my staff members, Bob Siverstein, Katy Beh, and Bill McCrone for their hard work and Sy DuBow of the National Center for Law and the Deaf for his efforts to make this bill a reality.

Mr. President, this bill is designed to ensure that captioned television reaches the millions of Americans who could benefit from this technology. This bill will make sure there is a strong self-sustaining captioning service. I urge my colleagues to join me in supporting this legislation.

I ask unanimous consent that a list of the groups endorsing the bill be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING TV DECODER CIRCUITRY ACT

I. TELEVISION INDUSTRY

Electronic Industries Association.
Zenith Corporation.
The Public Broadcasting Service (PBS).
The Corporation for Public Broadcasting.
The National Association of Public Television Stations.
Neal H. Pilson, President, CBS Sports.
"The Cosby show".
KCNC-TV, Denver, Colorado (NBC).
WOKR, Rochester, New York (NBC).
KAET, Tempe, Arizona.
WRGB, Schenectady, NY (CBS).
WJLA, Washington, DC (ABC).
WSBT-TV, South Bend, Indiana.
KATU Television Center, Portland, Oregon (ABC).
Dynatech Newstar, Madison, Wisconsin.
AT&T, Corporate Broadcast Manager.
The Caption Center, WGBH, Boston, Massachusettes (PBS).
National Captioning Institute.

II. EDUCATIONAL ORGANIZATIONS

American Federation of Teachers.
National PTA.
National Education Association.
Laubach Literacy International.
Literacy Volunteers of America—Barbara Bush, Honorary Chair.
International Reading Association.
Council for Exceptional Children.
Gallaudet University.
Gallaudet University Alumni Association.
Conference of Educational Administrators Serving the Deaf.
Convention of American Instructors of the Deaf.
National Association of State Directors of Special Education.

III. NATIONAL DISABILITY ORGANIZATIONS AND OTHER NATIONAL ORGANIZATIONS

ACLD, An Association for Children and Adults with Learning Disabilities.
Alexander Graham Bell Association for the Deaf.
American Association of Retired Persons.
American Association of the Deaf Blind.
American Civil Liberties Union.
American Council of the Blind.
American Deafness and Rehabilitation Association.
American Foundation for the Blind.
American Society for Deaf Children.
American Speech-Language-Hearing Association.
Association for Education and Rehabilitation of the Blind and Visually Impaired.
Association for Retarded Citizens of the United States.
Consumere Federation of America.
Council of State Administrators of Vocational Rehabilitation.
Disability Rights Education and Defense Fund.
Disabled But Able to Vote.
Epilepsy Foundation of America.
Mental Health Law Project.
National Association of Developmental Disabilities Councils.
National Association of the Deaf.
National Association of Protection and Advocacy Systems.
National Center for Law and the Deaf.
National Council on Independent Living.
National Council on Rehabilitation Education.
National Council of Senior Citizens.
National Easter Seal Society.
National Fraternal Society of the Deaf.
National Head Injury Foundation.
National Network of Learning Disabled Adults.
National Rehabilitation Association.
National Shorthand Reporters Association.
Paralyzed Veterans of America.
Registry of Interpreters of the Deaf, Inc.
Self Help for Hard of Hearing People, Inc.
Spina Bifida Association of America.
Telecommunications for the Deaf, Inc.
United Cerebral Palsy Association.
World Institute on Disability.

Mr. KENNEDY. Mr. President, I join in urging the Senate to approve the Television Decoder Circuitry Act of 1990. This important legislation will make television accessible to millions of deaf and hearing impaired individuals. With the flip of a switch, these citizens will be able to enjoy their favorite television shows, news programs, weather and sports, old and new films, like the rest of us. No longer will they be required to purchase expensive equipment or be restricted to watching television on sets with a decoder. Instead of relying on hearing friends and family to explain a missed punchline or turn of plot, deaf and hearing impaired individuals will be able to read captions of the spoken text along the bottom of the screens—anytime and anywhere they want to watch television.

Captioning can benefit not only the deaf and hearing impaired, but also the elderly, those learning English as a second language, young children learning to read, and adults seeking to overcome their illiteracy. Studies have shown that exposure to closed captioning can significantly improve word recognition, reading comprehension and language retention skills and can be a substantial motivation for learning English.

Thus, in addition to serving approximately 24 million Americans who are either deaf or hearing impaired, closed captions can also be a learning tool for over 20 million people in the United States who do not speak English, for more than 18 million students in kindergarten through third grade who are learning to read, and for almost 27 million adult illiterates who are trying to improve their reading skills.

I am particularly impressed with the promise of this legislation for helping disadvantaged children learn to read. I recently spoke with Ms. Jane Oates Lichman, a teacher who works with special needs children in the Philadelphia public school system. She emphasized the promise of closed captioning for this purpose, calling it a potential bonanza for anyone learning to read. As Ms. Lichman pointed out, books, magazines, and newspapers are not commonplace in the homes of children who are at or below the poverty level. As a result, teachers use any reading material available in the home to get students to practice their skills, even the small print on the back of a box of breakfast cereal.

But now, many of these families are buying generic cereal, with no small print. For these children, school is one of the few places where they are presented with the written word. But, there is one tool almost all families have—a television set. In the classroom, Ms. Lichman has found that children who practice reading by listening while visually tracking a script are more motivated and are able to make significant advances in reading levels. She pointed out that a television with closed captioning can have the same advantage, by exposing children and parents to written English in a nonthreatening, nonjudgmental and visually appealing manner, while they listen to the spoken words.

The Television Decoder Circuitry Act will provide access for deaf and hearing impaired to television. It will also bring benefits to many others in our society, and I urge those implementing the captioning system to consider these additional uses to the maximum extent feasible. Closed captions can improve the reading and English language skills of large numbers of Americans of all ages. It can provide access to the written word for non-English speakers, illiterate adults and children learning to read. For the price of a $3 decoder chip, we are making an unusually promising investment in the Nation's future.

Mr. President, I commend Senator HARKIN and the other sponsors of this important measure, and I commend the members of the Commerce Committee for expediting its consideration. I urge the Senate to adopt this legislation and I ask unanimous consent to have printed in the RECORD a letter

from Ms. Jane Oates Lichman describing its importance in teaching children to read. Ms. Lichman's inspiring letter brings home the real significance in very practical human terms of what we hope to accomplish by this measure and I believe that all Senators will find her comments of interest.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHILADELPHIA, PA, *July 27, 1990.*

Senator EDWARD M. KENNEDY,

Chairman, Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I am a teacher of the mildly handicapped and, for 14 years, have taught a mixed category special needs class at Stetson Middle School, in the Philadelphia public school system.

I am writing to you in regard to S. 1974, the Television Decoder Circuitry Act of 1990.

I know that the major concern of this bill is to assist the deaf and hearing impaired. As someone who works with children who, among other difficulties, have hearing problems, I am more than pleased that such steps are going to be taken by the federal government.

I would like to take this opportunity to point out what to me is an extremely important second goal served by this bill: Children who have other handicapping conditions that limit their reading ability will be greatly helped by the captioning provisions. It is a potential bonanza for anyone—child or adult—who is learning to read.

In my experience working with children who are at or below the poverty level, I know the need for outside supplemental reading materials. Books, magazines and newspapers are not commonplace in most of the homes of my students. School is the only place that they are presented with the written word. They are given no opportunity for reading practice, and, therefore each time they are presented with a reading task, it produces frustration. What they learn in school stays in school.

One common factor in all the homes of my students is the television. The television is a baby sitter and a friend to many of my students, children who in many cases come from dysfunctional families. This nonthreatening, non judgmental "friend" could help them gain self assurance with basic reading skills, which could then be reinforced in school—and all under the provisions of this current bill.

I, and many of my colleagues, are giving the education of these children our best shot. But there is no way that seven-year reading deficiency can be remediated by a 45-minute-a-day intensive reading workout. Teachers are out here teaching—but we need all the help we can get.

In my classroom, children using the "listening while visually tracking a script" technique have been more motivated and have made tremendous advances in reading levels. That's the kind of help they should be getting at home, but many, many children are not. These are children from dysfunctional families, drug-scarred homes which cannot provide the enriched environment that our parents and our grandparents gave as a matter of regular family life. There is no mother or father coming home after a hard day's work, with a nightly paper and a comic book for a good boy or girl. There is no friendly snuggle on the sofa while a grown-up reads you a story.

We have to use the "friends" that these children already have in their lives, the support systems already in place and currently giving them the help to get through what are very tough days. Television is there, accessible and ready to help reinforce the skills that they are struggling to learn in school. There is no mother or father to sit at the kitchen table and go over homework. In the best of circumstances for many of my students, the parents are illiterate themselves, or, in the case of many recent arrivals, are struggling to learn the rudiments of the language themselves. In these families, not only would closed captioning help the children, but their parents would be given a boost towards true reading and writing proficiency.

I am pleased and delighted that once again, in the middle of a budget crisis and transforming events in Europe, there are elected officials who realize that the more the world changes, the more we have to be sure our children will be able to live in that changing world.

Thank you.

JANE OATES LICHMAN.

Mr. SIMON. Mr. President, I am pleased to be a cosponsor of the Television Decorder Circuitry Act and am grateful to our colleagues Senator HARKIN and Senator INOUYE for once again providing leadership in this important area.

I also want to recognize the contribution of the Zenith Electronics Corp., which is located in my home State. Anticipating the needs of the Nation, Zenith had already begun closed-captioning preparation prior to Congress' announced intention to examine and review this issue. During the many hours spent crafting this legislation, Zenith contributed greatly. I am grateful to them for their leadership as well as their cooperation and expertise. It is these public/private partnerships that strengthen our Nation.

There are more than 24 million Americans who are deaf or hearing impaired. About 38 percent of older Americans are either deaf or have a serious hearing impairment. This bill will be invaluable to these individuals, permitting them to participate with their fellow Americans in the public information, education, and entertainment we receive from television. It will dramatically improve the quality of life of people now living too much in isolation. And it goes hand in hand with the Americans With Disabilities Act, bringing individuals with disabilities fully into the mainstream of American life.

But there are many others who will benefit as well from this legislation. The thousands of new Americans who enter our country as immigrants each year, eager to improve their English, will find captioned television a great help to them. It will also be an aid to individuals with learning disabilities and those having difficulty in mastering basic reading skills.

One of the greatest problems we face in our country today is illiteracy. At least 23 million Americans can be considered illiterate, and another 45 million read with only minimal comprehension. We are moving ahead on a National Literacy Act I introduced to address this problem, and I am hopeful we will send this vital legislation to the President before the end of this session. But we need to attack this immense problem from many directions and with many tools. Captioned television will make another important tool available for this effort.

I encourage my colleagues to give wholehearted support to this legislation.

Mr. McCAIN. Mr. President, I am pleased to support final passage of S. 1974, the Television Decoder Circuitry Act. By passing this important legislation, the Senate is yet again reaffirming its longstanding commitment of making our society more accessible. Because of this commitment, our communities are better places, and society as a whole will benefit. The Television Circuitry Decoder Act is an important step in this process, and I am proud to be the primary cosponsor of this legislation.

Two years ago, I introduced the Telecommunications Enhancement Act of 1988 to ensure that hearing and speech impaired individuals have access to the Federal Government. Last year I authored title IV of the Americans With Disabilities Act which ensures that our Nation's telecommunication network becomes accessible to all. This requirement in title IV of the ADA will finally provide universal telephone access for hearing and speech impaired Americans. However, Mr. President, many of our citizens still do not have full access to television programming.

Mr. President, there are over 150 million television sets are being used in the United States. As a matter of fact, more American homes have television sets than have telephones or indoor bathroom facilities.

The power of television as a medium of communication cannot be underestimated. Television has touched all our lives. It serves as a vital outlet of information. For those who are hearing impaired or deaf, however, its impact and power can only be truly realized if television programming is captioned. S. 1974 makes an important step toward ensuring that television is universally available.

The Harkin-McCain Television Decoder Circuitry Act seeks to further this goal of universal communication. Until the advent of new technology in the 1970's, television was basically inaccessible to deaf and hearing-impaired individuals. We now posses the technology to break down that wall of isolation.

Many will benefit from this legislation. Twenty-four million deaf and hard of hearing people, 27 to 29 million adults with literacy problems, 3 to 4 million immigrants learning English as a second language and millions of children learning how to read will all reap benefits from this legislation, the cost of which is minimal.

This bill would require that all new television sets with screens 13 inches or larger, whether manufactured in the United States or imported for use in this country, be equipped with this built-in decoder circuitry designed to display closed captioned television transmissions. The bill would further require the Federal Communications Commission to promulgate rules providing performance and display standards for this built-in decoder circuitry.

These standards must conform to the established signal and display specifications referenced to in S. 1974 to ensure that television viewers can universally receive and read closed captions. These display specifications ensure that the intent of the program producer, captioning agency, and program distributor are conveyed properly to the viewer. The display specifications define such things as placement, color, form and mode of the captions. These standards are essential in making sure that caption producers will be able to create captions that are readable regardless of which television set or decoder circuitry is used. Any equivalent specifications must ensure that television viewers receive and read closed captions with the same clarity, consistency, and to the same extent as such viewers would be able to receive and read closed captions produced in accordance with the PBS engineering report as amended.

Mr. President, it is time we address this issue. In 1986, the Senate realized—and rightly so I believe—that it could no longer ignore the power of the television medium and decided to televise our proceedings. Last year I strongly supported legislation to mandate that the Senate's daily business be closed captioned. We must encourage this process to continue and give all Americans the opportunity to be entertained by, to learn from, and be part of television.

Mr. President, I want to thank my colleagues for their work on this important subject, and most importantly, all my deaf and hearing-impaired friends who have been an inspiration for all of society.

I yield the floor.

Mr. KASTEN. Mr. President, I rise in support of the bill, S. 1974.

This bill, which I am a cosponsor, is extremely important to our more than 24 million silent partners. In recent months I have had an opportunity to interact with numerous deaf and hearing-impair citizens. I have found them to be very energetic and committed—their thirst for knowledge knows no bounds. I think that this bill will help satisfy that thirst for which they strive.

The hearing population will also benefit from this bill. This bill might well be the answer to the illiteracy problem that afflicts our Nation. There are 27 million American adults who are functionally illiterate; 18 million children in grades kindergarten to third grade who are now learning how to read; about 3 to 4 million immigrants who are seeking to learn English as a second language; and countless other Americans who are seeking to improve their literacy skills. All of these Americans will benefit greatly from the passage of this bill.

Studies have shown that exposure to closed-captioned television improves students' work recognition, reasoning, comprehensive, and language retention skills. It is also a very effective motivational tool for learning. Suppose there are 24 hours of captioning and an average person watches 7 hours of it. Think of how much English that person can absorb. The children would be enjoying the programs and simultaneously learning important language skills.

Another group that will benefit from the passage of this bill is the senior citizens. More often than not the elderly have a difficult time trying to listen to TV. Some elderly people buy hearing aids to compensate for that hearing loss, however, hearing aids cost money, and the current closed-caption decoder is expensive too—around $180 to $200. This bill will enable senior citizens to enjoy TV without incurring the added costs.

The Inouye - Danforth - Kasten amendment adopted at the committee markup will provide manufacturers the latitude to implement caption decording capability in the best and most efficient manner, which will ensure that businesses are provided with the best tools to keep them competitive and market oriented.

For many years, deaf and hearing-impaired citizens have been left out of American society; they have never been able to enjoy the same range of information as their hearing counterparts—news broadcasts, talk shows, sitcoms, sporting events, the list is endless. The Americans with Disabilities Act will help bring hearing-impaired citizens closer to society, and the passage of this bill will be yet another step toward full citizenship for the deaf community.

I eagerly give this bill my support and urge my colleagues to do the same.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1974) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Television Decoder Circuitry Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.".

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsec-

tion (c), and by inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it."

(b) Section 330(c) of such Act, as redesignated by subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof ", section 303(s), and section 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on July 1, 1993.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 5140

Mr. LEVIN. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5140, the School Dropout Prevention and Basic Skills Improvement Act of 1990, and that the measure then be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS ON THURSDAY, AUGUST 30, 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that during the recess and/or adjournment, the Senate committees may file reported legislative and executive calendar business on Thursday, August 30, from 11 a.m. to 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL CHARTER TO THE SUPREME COURT HISTORICAL SOCIETY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1834, a bill to provide a charter for the Supreme Court Historical Society.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1834) to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to the amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1834) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The Supreme Court Historical Society, Incorporated, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Supreme Court Historical Society, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF TRUSTEES; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of trustees of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIOINS.

(a) INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) SHARES OF STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(73) The Supreme Court Historical Society, Incorporated.".

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Common-

wealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. SALES AND USE TAX EXEMPTION.

Notwithstanding the provisions of section 105 of title 4, United States Code, or chapter 20 of title 47 of the District of Columbia Code, or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such provisions applicable to taxable events occurring within the Supreme Court Historical building and grounds.

SEC. 18. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Supreme Court Historical Society, Incorporated," and "The Supreme Court Historical Society," and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 19. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2870

Mr. DOLE. Mr. President, I ask unanimous consent that S. 2870, regarding Fort Hall Indian water rights settlement, be star printed to reflect the following changes, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 8:45 a.m. on Friday, August 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; that there be a period for the transaction of morning business not to extend beyond 9 a.m., with Senator BENTSEN to be recognized for a speech not to exceed 10 minutes in length; that at 9 a.m., the Senate resume consideration of the Department of Defense authorization bill with Senator WIRTH being recognized to offer an amendment relating to the availability of abortions on U.S. military bases overseas; that there be 90 minutes for debate, with Senator WIRTH controlling 45 minutes and Senator HUMPHREY controlling 45 minutes, at the conclusion of which time a cloture vote occur on the Wirth amendment as if a duly filed cloture motion had ripened but with the mandatory quorum call waived; with no amendments to the amendment in order prior to the cloture vote; and that if cloture is not invoked on the Wirth amendment, it be withdrawn; that following the disposition of the Wirth amendment, Senator CONRAD be recognized to offer an amendment relating to U.S. troop reductions in Europe, on which there be 40 minutes equally divided in the usual form with no amendment to the Conrad amendment being in order.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, I am going to have to ask the distinguished majority leader to allow time for this Senator to consult with the Republican leader. We have not as yet been able to fully examine the proposal. I am hopeful it will be accepted.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I modify my previously requested unanimous-consent request in the following manner: Delete all previous references to the Conrad amendment and substitute in lieu thereof the following: that following the disposition of the Wirth amendment, Senator CONRAD be recognized to offer an amendment relating to U.S. troop reductions in Europe.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I especially thank the managers, Senator NUNN and Senator WARNER, for the usual dispatch and organization with which they are handling this very important bill.

Mr. WARNER. Mr. President, I thank the distinguished majority and minority leader. I think I would like to observe that it is just about 12 hours that this bill has been considered by the Senate. I think the total of the quorum calls has been less than 30 minutes. That is not only to the credit of the managers but all Senators being cooperative to make this bill a reality.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess under the previous order until 8:45 a.m. tomorrow.

There being no objection, the Senate, at 11:32 p.m., recessed until Friday, August 3, 1990, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1990:

FEDERAL EMERGENCY MANAGEMENT AGENCY

THOMAS F. KRANZ, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JAMES P. MCNEILL, RESIGNED.

FEDERAL HOUSING FINANCE BOARD

THE FOLLOWING NAMED PERSONS TO BE DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD FOR THE TERMS INDICATED:

WILLIAM C. PERKINS, OF WISCONSIN, FOR A TERM OF 1 YEAR. (NEW POSITION)

MARILYN R. SEYMANN, OF ARIZONA, FOR A TERM OF 5 YEARS. (NEW POSITION)

HOUSE OF REPRESENTATIVES—*Thursday, August 2, 1990*

(Legislative day of Tuesday, July 10, 1990)

The House met at 10 a.m.

The Rev. Dr. William Holmes, the National Methodist Church, Washington, DC, offered the following prayer:

Almighty and Eternal God, on this day we give You thanks for the sources of authority by which this House has been established and conducts itself. For the Constitution of the United States, providing for legislative, executive, and judicial branches. For the continuing consent of citizens, electing and reelecting representatives to fashion laws addressing both specific needs and the common good. For courtesies and protocols by which this House perpetuates its own great spirit and traditions. And, above all else, for the authority of this body as derived from Your providence and will, ever calling us to the things that make for peace, justice, and a careful stewardship of this, our land, and the whole good Earth. Keep us now and always as a nation under God, and ever accountable to You—the Lord of history. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CLINGER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CLINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 108, answered "present" 1, not voting 34, as follows:

[Roll No. 300]

YEAS—289

Ackerman	Applegate	Bartlett
Anderson	Archer	Bateman
Andrews	Aspin	Bates
Annunzio	Atkins	Beilenson
Anthony	Barnard	Berman
Bevill	Hall (OH)	Neal (MA)
Bilbray	Hamilton	Nowak
Boggs	Hammerschmidt	Oakar
Bonior	Hansen	Oberstar
Borski	Harris	Obey
Bosco	Hatcher	Olin
Boucher	Hawkins	Ortiz
Boxer	Hayes (IL)	Owens (NY)
Brennan	Hayes (LA)	Owens (UT)
Brooks	Hefner	Packard
Browder	Hertel	Pallone
Bruce	Hoagland	Panetta
Bryant	Horton	Parker
Bustamante	Houghton	Patterson
Byron	Hoyer	Payne (NJ)
Campbell (CO)	Hubbard	Payne (VA)
Cardin	Huckaby	Pease
Carper	Hughes	Pelosi
Carr	Hutto	Penny
Chapman	Hyde	Perkins
Clarke	Jenkins	Petri
Clement	Johnson (CT)	Pickett
Clinger	Johnson (SD)	Pickle
Coleman (MO)	Johnston	Porter
Coleman (TX)	Jones (GA)	Poshard
Collins	Jontz	Price
Combest	Kanjorski	Pursell
Condit	Kaptur	Quillen
Conte	Kasich	Rahall
Conyers	Kastenmeier	Rangel
Cooper	Kennedy	Ravenel
Costello	Kennelly	Ray
Coyne	Kildee	Richardson
Crockett	Kleczka	Ritter
Darden	Kolter	Robinson
Davis	Kostmayer	Roe
de la Garza	LaFalce	Rose
DeFazio	Lancaster	Rostenkowski
Dellums	Lantos	Roth
Derrick	Laughlin	Rowland (CT)
Dicks	Lehman (CA)	Rowland (GA)
Donnelly	Lehman (FL)	Roybal
Dorgan (ND)	Lent	Russo
Downey	Levin (MI)	Sabo
Durbin	Levine (CA)	Saiki
Dwyer	Lewis (GA)	Sangmeister
Dymally	Lipinski	Sarpalius
Dyson	Livingston	Savage
Early	Lloyd	Sawyer
Eckart	Long	Schiff
Edwards (CA)	Lowey (NY)	Schneider
Emerson	Luken, Thomas	Schulze
Engel	Manton	Schumer
English	Markey	Serrano
Erdreich	Martinez	Sharp
Espy	Matsui	Shaw
Evans	Mavroules	Shumway
Fascell	Mazzoli	Shuster
Fazio	McCloskey	Sisisky
Feighan	McCurdy	Skaggs
Fish	McDade	Skeen
Flippo	McDermott	Skelton
Foglietta	McEwen	Slattery
Frank	McHugh	Slaughter (NY)
Gaydos	McMillen (MD)	Smith (FL)
Gejdenson	McNulty	Smith (NE)
Gephardt	Meyers	Smith (NJ)
Geren	Mfume	Smith, Denny (OR)
Gibbons	Michel	Snowe
Gillmor	Miller (CA)	Solarz
Gilman	Mineta	Spratt
Gingrich	Moakley	Staggers
Glickman	Mollohan	Stallings
Gonzalez	Montgomery	Stark
Gordon	Moody	Stenholm
Gradison	Morella	Stokes
Grandy	Morrison (WA)	Studds
Grant	Mrazek	Swift
Gray	Murtha	Synar
Green	Myers	Tallon
Guarini	Nagle	Tanner
Gunderson	Natcher	Tauzin
Taylor	Vento	Wheat
Thomas (GA)	Visclosky	Whitten
Torres	Volkmer	Williams
Torricelli	Walgren	Wilson
Traficant	Walsh	Wise
Traxler	Washington	Wolpe
Unsoeld	Watkins	Wyden
Valentine	Waxman	Yates
Vander Jagt	Weiss	Yatron
	Weldon	

NAYS—108

Armey	Hastert	Ridge
Baker	Hefley	Rinaldo
Ballenger	Henry	Roberts
Barton	Hiler	Rogers
Bentley	Hopkins	Rohrabacher
Bereuter	Hunter	Ros-Lehtinen
Bliley	Inhofe	Saxton
Boehlert	Jacobs	Schaefer
Brown (CO)	James	Schroeder
Buechner	Kolbe	Schuette
Bunning	Kyl	Sensenbrenner
Burton	Lagomarsino	Shays
Campbell (CA)	Leach (IA)	Sikorski
Chandler	Lewis (CA)	Slaughter (VA)
Clay	Lewis (FL)	Smith (TX)
Coble	Lightfoot	Smith (VT)
Coughlin	Lukens, Donald	Smith, Robert (NH)
Courter	Machtley	Smith, Robert (OR)
Craig	Marlenee	Solomon
Crane	Martin (IL)	Spence
Dannemeyer	Martin (NY)	Stangeland
DeLay	McCandless	Stearns
DeWine	McCollum	Stump
Dickinson	McGrath	Sundquist
Dornan (CA)	McMillan (NC)	Tauke
Douglas	Miller (OH)	Thomas (CA)
Dreier	Miller (WA)	Thomas (WY)
Duncan	Molinari	Upton
Fawell	Moorhead	Vucanovich
Fields	Murphy	Walker
Frenzel	Nielson	Weber
Gallegly	Oxley	Whittaker
Gallo	Parris	Wolf
Gekas	Pashayan	Young (FL)
Goodling	Paxon	
Goss	Regula	
Hancock	Rhodes	

ANSWERED "PRESENT"—1

Jones (NC)

NOT VOTING—34

Alexander	Ford (MI)	Morrison (CT)
AuCoin	Ford (TN)	Neal (NC)
Bennett	Frost	Nelson
Bilirakis	Hall (TX)	Roukema
Broomfield	Herger	Scheuer
Brown (CA)	Hochbrueckner	Smith (IA)
Callahan	Holloway	Towns
Cox	Ireland	Udall
Dingell	Leath (TX)	Wylie
Dixon	Lowery (CA)	Young (AK)
Edwards (OK)	Madigan	
Flake	McCrery	

□ 1026

Ms. SLAUGHTER of New York and Mr. DARDEN changed their vote from "nay" to "yea."

Mrs. BOGGS changes her vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MCNULTY). The Pledge of Allegiance will be led by the gentleman from New York [Mr. PAXON].

Mr. PAXON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5040. An act to extend the authorizations of appropriations for the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

The message also announced that, pursuant to Public Law 101-194, the Chair on behalf of the majority leader, announces the appointment of Mrs. C. Abbott Safford, secretary for the majority; and Ron Klain, chief counsel, Committee on the Judiciary; to the President's Commission on the Federal Appointment Process.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be permitted to sit today, August 2, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce to the Members of the House that we will accept seven 1-minute speeches on each side of the aisle today, and that other 1-minutes will be accepted later in the day.

□ 1030

COMMITTEE ON FOREIGN AFFAIRS WORKING ON EMBARGO AND SANCTIONS BILL TODAY

(Mr. FASCELL asked and was given permission to address the House for 1 minute.)

Mr. FASCELL. Mr. Speaker, I take this moment to advise the House that the Committee on Foreign Affairs met yesterday and voted out a sanctions bill. In light of the invasion, however, that dastardly, drastic and dangerous invasion of Kuwait, we are revisiting the legislation and expect to be out here, back on the floor, later today with an embargo bill and a sanctions bill. We are working with my distinguished colleague on the Committee on Ways and Means, the chairman of the Trade Subcommittee, the gentleman from Florida [Mr. GIBBONS], and any other committee that has some possible jurisdiction with respect to this legislation. The Committee on Foreign Affairs is now meeting and will stay in continuous session until we finish drafting this bill. We will build on the bill that the committee unanimously adopted yesterday, and, from what I have determined so far today, we will probably have unanimous agreement coming out of the Foreign Affairs Committee with the new legislation.

OPPOSE THE NEW HITLER OF THE MIDDLE EAST

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, appeasement of ruthless dictators never worked in Europe, and it surely is not going to work in the volatile Middle East against the blood thirsty and brutal dictator of Iraq, Saddam Hussein.

The invasion of Kuwait is the logical consequence of State Department appeasement and the blind pursuit of profits by European and Japanese companies, and by some of our own, as they scrambled, with their tongues hanging out, to lap up Iraqi petrodollars.

However, Mr. Speaker, the situation can be turned around. We need a total embargo against Iraq by all the civilized world. If this latest outrage of the Iraqi dictator persuades our State Department, Japan, and Europe to impose tough, multilateral sanctions that hurt, if the civilized world finally understands that outlandish threats by blood-thirsty dictators must be taken seriously, then and only then will we restrain the new imperialism of the new Hitler of the Middle East.

WHAT MUST BE SAID BACK HOME DURING SUMMER VACATION

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, we are now 1 day away from summer vacation. Imagine that—summer vacation, when there is a $104 billion sequester that's coming down the pike faster than a Mack truck.

Mr. Speaker, I just want to tell you what every Member of this House will have to tell our constituents, while we are home on vacation.

A reduction of 1 million military personnel—about half the force; 100 air traffic control towers shut down; elimination of student aid for 1.2 million students; 140 days of no safety inspections for the food we eat. Stop eating, folks; 6,600 Federal prisoners moved into already overcrowded facilities; and crippling of our efforts against AIDS.

Mr. Speaker, if we go home, that's what we've got to report to our constituents. It's a disgrace. I don't want to go home.

Mr. Speaker, keep us here and turn off the air-conditioning. Then you will see proposals to reduce the deficit start coming out of the woodwork and put it back on the bargaining table.

IRAQI ATTACK SHOWS IMPORTANCE OF BEING PREPARED

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, Winston Churchill once said that wars come very suddenly. The Iraqi attack upon Kuwait within the last few hours is a tragic example of this.

Mr. Speaker, Saddam Hussein, who some call the Butcher of Baghdad, ordered his troops across the border with Kuwait. He is making his bid for strong man of the Arab world. Earlier he promised President Mubarek of Egypt that he would not attack Kuwait. He made the same promise with our Ambassador last week. His promises, Mr. Speaker, are reminders of those made by Adolph Hitler some 50 years ago.

This conflict could have serious repercussions here in the United States. Americans remember the oil price increases in 1973 and 1979. Saddam Hussein wants the rest of us to pay for his recent war with Iran. Hussein's attack is a financial assault upon America and upon the industrialized world which is dependent on Mideast oil. Today we are in the midst of reducing our Armed Forces. A decade's effort toward rebuilding the Armed Forces of this country is now at great risk. The Iraqi attack should cause us to under-

stand all the importance of keeping our Nation well prepared.

HEAVY HITTERS FROM K STREET AND HOLLYWOOD ARE PICKING THE WINNERS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, as we prepare to debate campaign finance reforms, I urge my colleagues to take another look at the idea that most of a candidate's financial support should come from the people who live in the district or State that the candidate seeks to represent.

One of the most serious charges leveled against the present campaign finance system is that it allows outside interests to have an abnormal influence on what should be local decisions. In other words, the heavy hitters from K Street and Hollywood are picking the winners in congressional elections by making sure their candidates have more money than their opponents and can thus buy more advertising and hold more attention-getting events.

Our colleague from California, Mr. THOMAS, has long advocated limiting outside contributions, and I think it deserves consideration. To deny this House this opportunity to consider this would be unconscionable.

THE INVASION OF GARBERVILLE, CA

(Mr. BOSCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSCO. Mr. Speaker, as one invasion rages in the Middle East, another invasion has broken out in Garberville, CA. While most Americans enjoyed their summer barbecues last week, a tiny town in the California redwoods was attacked by the U.S. Army. Five Black Hawk helicopters, 1 Huey, 2 C-130's, 150 National Guardsmen, 50 GI's from Fort Ord, and 50 BLM agents have launched a full scale assault by land and air to rid the area of marijuana plants.

Yesterday a quiet little convent called to tell me that they had been invaded. Some at first thought it was the Russians, and then they were surprised to find out it was the Americans. Little old ladies out watering their tomato plants in the morning were shocked to see camouflaged GI's crouching around in the bushes.

So far I am told drug czar Bill Bennett and his troops have confiscated 330 marijuana plants. This is compared to some 20,000 confiscated since January by the local police.

Mr. Speaker, it will remain to be seen what this unique show of military force will cost the taxpayer, but, had the local authorities been contacted in advance, they could have told General Bennett where to look.

THE AIRLINE PASSENGER DEFENSE ACT

(Mr. RITTER asked and was given permission to address the House for 1 minute.)

Mr. RITTER. Mr. Speaker, have you ever flown into Washington National Airport only to discover that your luggage is on an extended vacation in Topeka? All of us have heard the war stories, flights canceled without notification, luggage lost, damaged, or destroyed, or arrived hours after the vacation is over, people getting rerouted into the twilight zone or just bumped off a flight.

□ 1040

Sad to say, most hard luck cases go unreported because passengers feel that their complaints go into some black hole somewhere. Competition is virtually nonexistent. Flying today has become the airborne equivalent of the New York City subway, except on the subway treatment is a little more hospitable.

The Airline Passenger Defense Act is a modest step forward for the beleaguered downtrodden airline passenger. Airline service has become the ultimate oxymoron of the American economy.

You can do something about it. Join over a hundred original cosponsors, including the leadership on the aviation issue today as we introduce the Airline Passenger Defense Act.

TOUGHER SANCTIONS AGAINST IRAQ

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, unfortunately naked aggression is loose again in the world. We witnessed it against Ethiopia. We witnessed it in Europe by Hitler against many small and defenseless countries.

We cannot tolerate what is taking place between Iraq and Kuwait. It is time for action.

I intend to support the resolution that will be on the floor this morning and I intend to have additional sanctions added to it, if it is within my power. The sanctions that I call for will ask for American sacrifice, but we need to sacrifice now and we must lead. The sanctions that I will call for will place a total economic embargo on Iraq and upon Kuwait as long as they are occupied and controlled by Iraq; but in addition to that, we will say to our trading partners throughout the world, every trading partner, including Europe, Japan, Russia, and China, that if you do not also embargo the same way we do, you products will be excluded from our market to the extent that you continue to trade with that country.

Mr. Speaker, this is tough. It must be done.

TURNING FROM B-1 BOB INTO B-2 BOB

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, all the tough liberal Democrat talk in the world will never stop aggression.

May I paraphrase Teddy Roosevelt. "Speak softly and carry a big B-2."

Today is the day that this Member turns from B-1 Bob into B-2 Bob.

The reason? Power projection. A week ago Saturday, I was at the christening by Barbara Bush of the U.S.S. *George Washington.* Our super carriers are for power projection.

The B-2 is for power projection.

Mr. Speaker, these words on this House wall, "In God We Trust," are fitting. But after the way we decimated our defense budget 2 days ago in the Armed Services room, do you know what 2118 Rayburn needs on the wall? Plato: "Only the dead have seen the end of war."

The world's largest oil company has just been taken over. That is a hostile takeover, my liberal Democrat friends. Sanction all you want and call him a mini-Hitler. We called Hitler a mini-Napoleon in the midthirties to little effect.

No, this is a dangerous world we live in. Last year, the blood in the streets of Tiananmen Square helped save the decimation of our defense budget. Blood in the streets of Kuwait may make some Democrats wake up.

The Kuwaiti Ambassador is serving crow over in the Kuwaiti Embassy right now. I hope some of my liberal colleagues have the common decency to eat a little of it.

THE TRANSFER OF CHEMICAL WEAPONS TO JOHNSTON ISLAND FROM GERMANY

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I have a personal interest in the transfer and destruction of any chemical weapons in what I consider as my backyard. This is the same backyard shared with the people in the States of California, Oregon, Washington, Alaska, Hawaii, and the Territory of Guam.

Mr. Speaker, I am firmly opposed to the transportation of nerve gas and other chemical weapons and hazardous substances from Germany to Johnston Island and I oppose the incineration of these chemical weapons for several reasons.

First, I am not sure that incineration of these chemical weapons would not be hazardous to the lives of the millions of people who live in the Pacific. Second, I am also not sure that incineration of these chemical weapons is environmentally safe. Third, it is not clear to me that the means of transporting these chemical weapons is secure. One only has to recall last summer's *Exxon Valdez* oilspill to realize what could happen if chemical weapons, and not oil, spilled into the ocean. It would clearly be a traversty.

Mr. Speaker, I call upon the administration to stop the movement of these chemical weapons to Johnston Island until a congressional delegation is allowed to examine this whole plan.

Mr. Speaker, is it so difficult to have our President consult with our NATO allies and collectively set up a facility to destroy the chemical weapons in Europe, since after all it was for their defense against possible Communist aggression?

Mr. Speaker, I submit I am sick and tired of having the Pacific Ocean as the world's dumping ground for toxic and dangerous chemical weapons.

AN OPEN RULE ON CAMPAIGN REFORM AND CIVIL RIGHTS

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, today the House is going to take up civil rights, and tomorrow it is going to take up campaign reform. I would suggest that tomorrow when we take up campaign reform, the way in which you and the majority are trying to structure the debate, it will neither be civil nor will there by any rights. You will not allow a free and open debate.

What are you afraid of, Mr. Speaker? What is the Democrat majority afraid of? Why do they not want to have each issue debated on its merits?

If the majority of the people in this body agree on an issue, fine; but let us not lie to the American public, Mr. Speaker. Let us not say we will have civil rights in some matters, but on an issue of major import to the American public, reforming the political campaign process, we are not going to allow civility, nor will we allow rights. You are going to give us very close to a closed rule. You are going to have two bites of the apple, and we get one little nibble on the crumbs, and you are going to amend that.

Is that the way to treat the American public? The Keating Five would be proud of you, Mr. Speaker. That is the way to do it. Keep down debate. Keep incumbents in. Keep money flowing in from PAC's and outside special interests. Do your best, Mr. Speaker, and the Democratic majority, to thumb your nose at civility and rights and to the rights of the American public to know just why their campaign system sucks.

DIAL 1-800-USA AND GET FREE AMERICAN HELP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are going to hear a lot about Iraq today. Let me say, there is some good news, some good news in that the cold war is over and for the first time in a long time we are seeing the U.N. Security Council unanimously vote with no vetos to sanction Iraq. I think that not only their sanctioning of Iraq, then we must move them to do economic sanctions and we must keep everyone together.

One of the mistakes I think we have made in that area is that the world thinks all they have to do is dial 1-800-USA and we come free of charge.

As chairwoman of the burden-sharing panel, I must tell you the last time it cost us $100 per barrel of oil that was shipped out of there to Japan and Europe. That was very nice of us, but I think this time we must demand that they pay their fair share, too.

We have heard speeches this morning that if we had just voted for the B-2, this would be over. The B-2 would not do a thing about this. This means committing ground troops to push their forces back.

This is a very, very serious thing, and I think we must insist that our allies join. No more dialing 1-800-USA and we come free.

CONGRESS SHOULD TAKE PREVENTIVE ACTION AGAINST INVASION ON AMERICAN CONSUMERS

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, some people claim that Congress never learns from experience. Let us prove them wrong. The news out of Kuwait and Iraq is most disturbing, but there is no reason to whip up hysteria about it.

I am asking Congress to take preventive action now before the invasion, the true invasion, the real invasion takes place, the invasion of the American consumers' pocketbooks.

In the past this kind of incident has always been used as a pretext to increase oil and gasoline prices at the pump. I say pretext, because upon investigation it has always been the conclusion.

Let us in Congress take the initiative and send a strong message that we will not condone or allow this incident to be used as a pretext by the big oil companies to increase prices.

□ 1050

Now is the time for action. Now is the time for us to focus an eagle eye on the big oil companies and see what happens to the oil and gasoline prices.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, the invasion of Kuwait frightens everyone. We must deal with Saddam Hussein in an effective way. This underscores the military problems we face in the new world.

Mr. ROTH. Reclaiming my time, I thank the gentleman for his comments.

But this, in my opinion, is for us to focus on what is taking place as far as gasoline and oil prices. That is the key issue. To whip up hysteria about the invasion is going to do nothing for us.

AVIATION SAFETY AND CAPACITY EXPANSION ACT OF 1990

The SPEAKER pro tempore (Mr. MCNAULTY). Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5170.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5170) to amend the Airport and Airway Improvement Act of 1982, to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the airport and airway trust fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes, with Mr. PICKETT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, July 19, 1990, the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this to advise the Committee of the Whole where we stand on this legislation since it has been almost 3 weeks since we interrupted consideration of the bill.

At the time when we concluded the initial action on this legislation, we had approved the rule. We had concluded general debate. And we had dealt with some seven amendments to the legislation, either adopting most of them or resolving them in acceptable fashion. We have at least one, possibly two, amendments remaining. One is a major amendment to be offered by the gentleman from California [Mr. Bosco] to strike a provision of the bill.

I would just simply like to summarize as a refresher for our colleagues the main provisions of H.R. 5170, the airport improvement bill.

This legislation authorizes $5.5 billion for air traffic control modernization for fiscal years 1991 and 1992. That is an average 59-percent increase in spending on air traffic control equipment, computers, color weather radar systems, doppler weather radar systems, wind shear detection systems that are needed at major airports to make air travel safe and efficient.

Second, the legislation authorizes $3.7 billion for airport capital development for fiscal years 1991 and 1992. This is a 29-percent increase over the current fiscal year spending.

Air capacity improvement and expansion are necessary if we are going to deal with the 117 million hours of delay air travelers experienced last year and the $5 billion it cost our national economy for those delays. You do not build capacity without spending some money, and this bill does that out of the aviation trust fund.

The third, the bill will fund 75 percent of FAA's total budget out of the aviation trust fund pursuant to an agreement worked out between the Subcommittee on Aviation and the Subcommittee on Transportation Appropriations, the Office of Management and Budget, and the Department of Transportation. We have a bipartisan three-way agreement on what has been a very important, I would say even crucial, ingredient in this total program of drawing down the surplus in the trust fund, spending it on airport improvement, investing it in modernization of the air traffic control system, and moving ahead with the business of aviation.

As a result of this agreement, and I must say also that the House Committee on Ways and Means has been part of that agreement. The aviation trust fund balance will be reduced from the current $7.6 billion to $1.1 billion over the next 5 years. We will not have an increase and we will not need an increase in the aviation ticket tax to fund these program levels over the next 5 years, because we deal with them by the agreement I have just outlined plus one other provision that I will address in a moment.

The bill also reforms the essential Air Service Program to prevent further reductions of cities from the essential Air Service Program and to ensure funding on a consistent, sustained basis for this program that was part of the basic agreement in 1978 to deregulate aviation.

The legislation also extends a very effective State Block Grant Program. It establishes a new program to support the conversion of military airfields to civilian use to enhance capacity, and it requires the FAA to establish a system of satellite flight service stations in areas that have unique weather or operational conditions that are crucial to the safety of flight.

The other element of this legislation that is innovative and different is that it increases additional revenues to provide for expansion of airport capacity, and that is through the use of a passenger facility charge which is permitted in this legislation for airports who choose to adopt through their ordinary procedures an additional charge on passengers similar to a toll on a bridge or a toll road. They do not have to put it on. They can if they wish.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, they can if they wish impose that or adopt that charge. It is limited in this bill only to airside uses, only to runways, taxiways, and to gates. It cannot be used beyond the airport, just like a toll on a toll road. It is used only to build that road or to retire the debt on that road or to maintain that road, and so the PFC is limited very narrowly. It is an essential part of this total agreement drawing down the trust fund, spending that money on airport capacity, enhancement and improvement.

There is a difference of opinon. Some people say we should not have this charge, and we will debate that as the gentleman from California offers his amendment.

That is kind of where we are as an overview of the legislation. We must adopt this legislation. It will set the tone for aviation for the next decade for a $600 billion a year industry, to enhance its growth, improve air travel, and reduce that congestion that we all face every time we get on a plane.

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 5170, the Aviation Safety and Capacity Expansion Act of 1990. As chairwoman of the Government Activities and Transportation Subcommittee of the Government Operations Committee, I have examined a range of issues over the last several years related to aviation safety, airport security, and air traffic control. Having thoroughly investigated and studied these and other aviation issues, I am convinced that H.R. 5170 is urgently needed and that it deserves our strong support.

Of extreme importance is the fact that H.R. 5170 establishes the framework for a combined Federal and local program to develop the crucial aviation infrastructure for this country. For example, permitting airports to assess a passenger facility charge [PFC], the bill will effectively cause the aviation trust fund surplus to drop from over $7 billion to $1 billion by 1995, thus creating a potential of $1 billion in new annual capital funding for airport capacity and safety improvements.

This is significant because State and local governments that own and operate airports, like my own city of Chicago, need to finance $50 billion in projects over the next 5 years to increase capacity, improve safety and security, and reduce aircraft noise.

In addition, the bill increases authorizations for the Airport Improvement Program, FAA's facilities, equipment, operations, and maintenance accounts, as well as the Essential Air Service Program; and provides significant new funding which will enable all airports to address their funding needs for such vitally needed projects as runway expansion.

Of the $10 billion annual capital needs the Federal Airport Improvement Program [AIP] authorization covers only $1.8 billion per year, and actual appropriations are even less. Moreover, the Airport Improvement Program is only one of the aviation programs funded from the trust fund through the Federal ticket tax and only assists certain airport projects. For example, the Airport Improvement Program has provided only marginal support for Chicago airport capital development programs. Historically, Chicago's airports have received only minimal allocations of AIP discretionary dollars. From 1982 through 1987, O'Hare ranked 21 out of the top 24 airports in return of AIP discretionary funds per enplanned passenger. As a result of Chicago's low return on AIP discretionary funds, the city has had to rely on airline-sponsored revenue bonds to fund its projects, resulting in increased debt service to the city.

Furthermore, the Airport Improvement Program does not include funding for any AIP eligible projects the city is currently scheduled to implement as part of its O'Hare Development Program. Furthermore, it falls nearly $2.7 million short in meeting the costs of Chicago's 5-year airport improvement plan for O'Hare, Midway, and Meigs airports.

Providing airport operators with the ability to impose passenger facility charges gives local governments the option of raising funds from air travelers to help pay for local airport development needs. Since passengers benefit the most from airport expansion and improvements, the only way to adequately increase airport funding is for Congress to permit airports to raise funds directly from passengers. The additional cost of $1 to $3 to the passenger, I believe, is reasonable and justifiable, particularly if you consider that passenger are already paying far more in delay costs and higher fares because of inadequate airport capacity, not to mention inconvenience.

The passenger facility charges provided in H.R. 5170 would be used to expand and improve airports, to reduce passenger delay costs, and provide capacity needed for airline competition to reduce airfares.

I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. BOSCO

Mr. BOSCO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bosco: Strike sections 108, 109, and 110 of the bill and redesignate subsequent sections of title I of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. BOSCO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOSCO. Mr. Chairman, today we decide whether we are going to turn the Nation's airports into taxports.

The bill before us would allow local airport officials to treat passengers like cash cows, able to indiscriminately milk rich and poor alike, family vacationers, frequent flyers, everyone, every time they step on an airplane.

□ 1100

If you are going from Washington through Chicago to San Francisco with your family, you, your wife and each of your two kids will shell out $3 each, first in Washington, then in Chicago. And on the way home you will shell out another $24. My amendment strikes this new tax from the bill.

A couple of months ago people around here were talking about new taxes in hushed tones. Now since the President's lips have become a lot easier to read, not a day goes by that a new tax is not proudly announced from the budget summit; taxes on wine and beer, taxes on tobacco, increased taxes on home mortgages, limited deductions on real estate taxes, you name it. The American people are quaking in their boots to see what new tax we are going to come up with next.

Today each and every Member of the House will have a chance to vote on the first big new tax of the season, a $1 billion tax on the traveling public. It has been so long since we have seen a big new tax around here that many Members have a hard time recognizing it.

I think a lot of people recall the ancient fable of the blind men feeling the elephant, not able to see the elephant, and each decided that they would feel a different part of the elephant's body to determine what it looked like. One went up and felt the trunk and said, "Oh, my goodness, an elephant really is much like a snake." Another went back and felt the tail and said, "Oh no, an elephant is just a rope or a vine." Then the other one wrapped his arms around the elephant's feet and said, "No, an elephant is just like a tree trunk." Of course they were all wrong in describing the creature. That is how we look at taxes around here. One goes up and feels it and says, "Oh no, this is not a tax, it is a user fee." Another goes up and says," Oh my goodness, this is not a tax, it is just a charge." And some say, "Well, this thing that we are feeling has been approved by both the Republican and Democratic leadership and therefore, it is an old fashioned, good tax."

Well, there is one group out in the country that is not going to be blind to this tax, and that is the people who are going to have to pay it, not once, not twice, but every time they step onto an airplane.

Today I am giving everyone a chance to vote against a plain and simple new tax. In fact, it is a double tax, a regressive tax, and an unneeded tax.

There are some who will make the argument today that these passenger facility charges are not really taxes, they are user fees. But in fact, your constituents already pay an 8-percent fee to use the airport every time they buy a passenger ticket. This fee is tacked onto every airplane ticket that a person buys. Its sole purpose is to pay for airport facilities and the air traffic control system.

The tax we will be voting on today does exactly the same thing. It is a double tax. And at a time when almost $8 billion is reposing unused, unspent in the airport and airways trust fund, we are asking the American people to pay another tax to do the very thing we have collected $8 billion of their money for and have not spent.

The distinguished and very able chairman of our Aviation Subcommittee, my good friend, has explained this by saying people have got to recognize that there is no free lunch. But in this case, the American people have paid for their lunch and it has never been delivered to the table. And now we are going to ask them to pay another tax to get into the restaurant.

There are some in this room better at explaining things back home than I am. In fact, there are some that can explain just about everything to their constituents, and I am not quite as good at it. Frankly, if I were at a town meeting and some person in the audience raised his hand and said, "How is it, Congressman, that you could have $8 billion that you have already taxed me and the American people sitting in a fund that you have not used, and now you are going to tax me another $3 every time I get into an airplane to pay for the same thing?" I am going to have a hard time explaining that.

The tax before us is often glibly explained away by the proponents of this tax by saying yes, we have the $8 billion sitting there, but under this bill everybody has agreed, the President, the OMB, the Democrats, the Republicans, everybody has agreed that we are going to start spending down the aviation trust fund.

The CHAIRMAN. The time of the gentleman from California [Mr. Bosco] has expired.

(By unanimous consent, Mr. Bosco was allowed to proceed for 5 additional minutes.)

Mr. BOSCO. Mr. Chairman, where is the tooth fairy when we need her? Every time we have reauthorized this trust fund the same promise has been made. Ever since 1972, the promise has been made that we are going to start spending down the trust fund and it has never happened. The fund has been kidnapped and hidden in a dark garage, and now we are saying to the American people give us $1 billion more in ransom money and we will let the trust fund loose.

Members will hear about the so-called trigger mechanism built into this bill that says that if we do not keep our promise and spend down the trust fund all of this new tax will be erased from the books. But pay close attention to how cleverly this provision is written, because the bill allows every airport that starts to collect a passenger facility charge before October of 1992 to continue charging that charge even if we do not spend down the trust fund. The old trigger mechanism, in fact old Trigger, is going to be long out of the stable by the time this barn door gets shut on this new tax.

Members will hear arguments that this is not a new tax that we are charging here in the Congress, all we are doing is allowing the local airports to charge this tax. Before you start washing your hands of this affair, keep in mind Congress now specifically prohibits airports from charging a head tax on passengers. And it is not going to take any Sherlock Holmes for passengers to start figuring out who authorized this new tax.

Many Members have come up to me and said well, my airports have called me and all of them want this new tax. Well of course they do. Do you know any full-blooded, red-blooded bureaucracy in this country that would not love to get its hands on an unlimited new ability to tax the American people? Yet, these taxports already have vast ability to raise revenues. Airports can issue bonds for facilities improvements and tax the airlines and consumers to pay off those bonds. In fact, the first 5 months of this year alone nearly $3 billion in airport bonds have been issued, a dramatic increase over previous years. Airports can tax businesses both on and off the airport to fill their coffers. Let me repeat that, airports can and actually do charge income taxes to businesses that are not even located on the airport property. No other jurisdiction that I know of has this power.

And because business travelers will write off the tax that is included in this bill on their income taxes, the new taxes in this bill will actually cost the Federal Treasury $200 million and increase the Federal deficit. In fact, at this very moment the administration is proposing to increase the 8-percent tax that we already charge by 2 percent, so that if this new proposal goes into effect, the average traveler will be paying a combined tax increase of 62 percent.

My amendment strikes the new taxes from this otherwise excellent piece of legislation. My amendment says do not turn airports into taxports. Let us spend the taxes that we have already collected from the taxpayers' pockets before reaching our hand into the other pocket.

We have the support of all of the major unions in the country, the American Society of Travel Agents, the American Automobile Association, the Regional Airline Association, and I hasten to say, airline travelers everywhere.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it is important that we understand what this amendment does. I do not think one would ever understand what it does from listening to the comments of my friend and colleague on the committee who just spoke.

The provisions in the reauthorization bill do not represent the imposition of a tax as has just been characterized. It is not a Federal tax; it is a local option.

This legislation merely restores taxing power to local authorities which they enjoyed up to 1973 when they were prohibited from using it by Congress. This type of legal authority is currently utilized by the States in other transportation areas, and there is no reason to prevent them from raising capital for airport development.

Similar user charges are imposed by the States through taxes on gasoline as well as highway tolls.

Therefore, we are not creating some new hybrid type of user fees, but are merely giving back to the States a power which they formerly had and which they had up until 1973.

Let me explain what the bill does and the importance of it.

This amendment is dangerous. It would eliminate one of the most important features of the bill, the passenger facilites charge.

It is well known that we have been trying for many years to meet the funding needs of our airport and airways system. Yet, we fall further and further behind. No new airports have been built in more than 15 years.

□ 1110

It is now estimated that about $10 billion per year will be necessary to keep up with the growth in air travel in this country. Even with the full funding for the Airport Improvement Program in this bill and a spend down in these trust fund surpluses, we cannot meet those needs. Therefore, it is necessary to look at innovative approaches for expanding airport capacity.

The PFC is one such innovative approach. A PFC has several advantages.

One thing, it is totally voluntary. A local airport proceeds with a PFC if it has a high-priority safety or capacity expansion project that it needs to pursue;

It could not be blocked by an airline that dominates an airport and wishes to keep out new competition; and

In the long run as new capacity comes on line, it will mean more competition and thus lower fares for passengers.

Furthermore, the legislation contains several protections to prevent abuses of the new PFC. For example:

It is not an open-ended tax imposed by local authorities as has been characterized by the speaker before me.

Mr. Chairman, any PFC would have to be approved by the Secretary of Transportation to ensure that the project it will fund has a national purpose; revenues from the PFC could not be diverted to nonairport uses. The bill contains auditing provisions to ensure this; And continued PFC authority is tied to full funding of the airport improvement and essential air service programs and thus to the continued draw-down of the trust fund surpluses.

It should be emphasized that the PFC in this bill also the small ones. Under its terms, a large airport that charges a PFC will have to turn back some of its Federal airport improvement money to a small airport fund. That fund will make millions of dollars available for nonhub and general aviation airports.

In short, under this bill, with its PFC provision, everyone, everyone in this country who uses the air traffic system is a winner.

Therefore, I urge my colleagues to support the PFC and to soundly reject this amendment.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment by my good friend and colleague from California. The amendment, simply put, means that less investment will be made in the Nation's airport system right at a time when it is desperately needed. We have reached a point in the development of our air transportation system where we need to enable all levels of government, Federal, State, and local, to do everything they can to finance infrastructure improvements at the Nation's airports.

Federal funding alone will not be sufficient to meet the needs for airport development. Federal funds must be supplemented by local PFC's. H.R. 5170 establishes a program to spend all the new funds contributed by users to the Federal airport and airway trust fund and to draw down the $7.6 billion surplus in the fund over the next 5 years. However, this Federal program of about $2 billion a year for airport development falls far short of the $10 billion a year which is needed. Airports also need access to PFC revenues, estimated at about $1 billion a year.

Because the needs for airport development are so great, we should not delay a PFC until we have spent the surplus in the trust fund as some have argued. The House appropriating and authorizing committees have now agreed on a program to spend down the trust fund surplus over the next 5 years. We should go forward now with both the Federal program and PFC's. In addition, H.R. 5170 includes protections against the failure of the Federal program. The bill cuts off further PFC's in 2 years if the Federal program falls short of the agreed upon levels.

If you do not like sitting and waiting in crowded, congested airports today, the amendment by Mr. Bosco will make the situation even worse by taking away a major source of relief to those problems—the passenger facility charge. The PFC provision is crucially needed. Just ask your hometown airport director.

I urge defeat of the amendment.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise to support the amendment offered by my colleague, Mr. Bosco. As a member of the Aviation Subcommittee, I am aware of the pressing need for additional capacity at our Nation's airports. I do not, however, believe that a passenger facility charge offers a painless solution. We are talking, after all, about a head tax on every passenger traveling through those airports which implement PFC's. The airport and airway trust fund contains a surplus of over $7 billion already collected from air passengers for capital improvements. How can we levy a PFC until we first spend this surplus?

Most everyone agrees that we need to spend more money on our aviation infrastructure; the issue is who will pay, and when. Users of the system already are taxed on each ticket purchased.

Ironically, that excise tax is slated for a 25 percent increase in the proposed fiscal year 1991 budget, from 8

percent to 10 percent. The airport and airway trust fund receives its revenues from that ticket tax and aviation fuel taxes. Ostensibly, these taxes are collected for the same purpose as a PFC. The trust fund surplus should be spent before we impose yet another tax on the traveling public.

Furthermore, a passenger facility charge unfairly hits the traveling public for some costs which should be borne by local communities. After all, they benefit from the economic activity generated by the airports in their jurisdiction. Although there is a national interest in having a well-developed aviation system, there is also a strong local interest in good local airports. Therefore, the costs should be shared between the two levels of government.

The PFC provisions of H.R. 5170 would allow local airport authorities to impose their own billion dollar annual tax largely on residents of other communities to fund airport development. That would help them shift their share of airport costs back to the travelers of the whole Nation.

This is not the first time Congress has addressed the issue of allowing airports to establish a head tax. In the early seventies, Congress decided to prevent airports from collecting such charges from passengers. One of the principal concerns at that time was the diversion of revenues generated on the airport site to nonairport related uses.

While I welcome the efforts of Mr. OBERSTAR, Mr. CLINGER, and others to include provisions in this legislation to guard against such diversions, those efforts just won't work. This proposed new revenue stream will indirectly relieve cities of some of their costs for airport maintenance and development. And those cities fortunate enough to have hub airports will gain an enormous windfall at the expense of everyone else.

Consider the case of Chicago for a minute. Its airports, like all airports, generate economic activity which contributes to the local tax base. The city of Chicago has projected a multibillion dollar gain over only a few years resulting from the construction of a new airport in the southeast sector of that city. Why then should we let Chicago finance its share of the costs of such an airport by taxing all passengers passing through Midway and O'Hare? If the airport is so valuable, let Chicago pay its share of the costs itself.

Mr. Chairman, giving local airport authorities direct taxing authority through PFC's unfairly hits air passengers twice for the same purpose. For the Federal share of airport development costs, let's spend the money already in the Federal trust fund. For the local share, don't let local authorities tax the general traveling public again. Head taxes were bad policy in 1973, and they're bad policy today. I urge my colleagues to vote for the Bosco amendment.

□ 1120

Mr. NOWAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this bill, including the PFC initiative in the bill.

I can also understand the frustration of the Members who want the trust fund balances reduced and expended, for the purposes of airport and safety improvements. This is why they are collected.

I am sure we would all be against higher fees to reduce the Federal deficit.

The passenger facilities charges are a user tax needed to advance airport capital development projects that will enhance capacity, reduce delays, and improve safety and security.

It is a user fee that I believe users of airports will support because its proceeds will be dedicated to improving airports they utilize.

Recently, the voters in California supported such dedicated taxes when they voted in June to approve an increase in that State's gasoline tax. That increased tax, will be dedicated to transportation infrastructure improvements.

When we come back in September, we will be faced with a budget vote from the summit that contains deep cuts, more fees, and hopefully, some progressive taxes to balance the package. This vote today will be a small piece and at least it is dedicated to needed airport infrastructure improvements.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 5170 and in opposition to the Bosco amendment. The voluntary passenger facility charges are a central part of this legislation and a key part of the plan to improve our Nation's airways and airports—from the largest to the smallest.

I am especially interested in, and pleased with, provisions in the bill that address the Essential Air Service Program. H.R. 5170 would authorize $39 million per year for the program through fiscal year 1998, require that beginning in fiscal year 1992, appropriations for EAS subsidy payments be made from the airport trust fund instead of general appropriations, would restrict the ability of the Department of Transportation to eliminate communities from the program, and would preserve the authority to permit additional eligible communities to participate in the program.

EAS, first enacted in 1978 and reauthorized in 1987, is designed to ensure continued air service to communities where affordable air service would not be otherwise offered. Mr. Chairman, the key word here is "essential." EAS provides an essential service. It is not luxurious air service. It is not convenient air service. It is essential air service. The communities across America that need it are not asking for something special that the rest of the country does not enjoy—only a small part of what the rest of the country expects.

EAS offers protection to those communities at risk because of airline deregulation, and Congress has shown its continued support for the program by passing a 10-year reauthorization.

Nevertheless, in recent years EAS has faced major funding cuts. As a rural program in an urban-oriented House, it loses the battle when our budget problems pit rural against urban for scarce transportation dollars.

The recent bus strike illustrated the precarious state of transportation in many areas of our country. How many news articles were headlined "When the bus is gone, there is no way out?"

An automobile, for many is a luxury or an impossibility. Bus service is in serious trouble. In some areas, there is no bus company to go on strike. Rail service touches a relatively small part of the country. There are Members of this body who oppose funding Amtrak, pointing to the accessibility of air travel as an obvious option to rail. Without EAS, many communities could be faced with no transportation options at all.

If we deprive small communities of their air service, we also deprive them of a good part of their economic base. In my district, for example, small communities with an economy dependent on manufacturing or distribution are especially dependent on regularly scheduled air service. If company managers and customers cannot get in and out of communities on a regular basis, some plants will be forced to relocate, In small and rural towns, a loss of only 40 or 50 jobs is totally devastating.

A lack of viable transportation creates a feeling of isolation in affected communities. Take, for example, my State of Nebraska. Nebraska is 500 miles wide. Without EAS service, western Nebraskans must travel to Denver, hundreds of miles to the west, to get to the State capital, Lincoln, hundreds of miles to the east.

The areas served by EAS are themselves essential to our Nation. These communities provide the country with its food, fiber, lumber, minerals, oil, coal, and so many other resources. These communities provide essential products and services and, in turn, need and deserve essential services. These are not ghost towns—these are cities central to the nations livelihood.

Hot Springs, AR—Alamogordo, NM—Ottumwa, IA—Dodge City, KS—Morgantown, WV—Mankato, MN—Lake Placid, NY.

Already, painful cuts to the program have left many communities to fend for themselves. One of those cities, Sidney, NE, dropped from the program in 1990, is now forced to contribute $20,000 of municipal funds to the airline serving the area to regain the only scheduled service.

Mr. Chairman, I think we are on the right track today with this legislation to provide for a more orderly and sufficient funding of the program. I do not see this is an ideal, cure-all, solution. This fight has been going on a long time and it will continue, but I think this is a big step in the right direction. I urge my colleagues to support the bill.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I take this time reluctantly because I do not want to really be in opposition to my good friend and colleague, the chairman of the full Committee on Public Works and Transportation [Mr. ANDERSON]; nor my very fine colleague, the gentleman from Minnesota [Mr. OBERSTAR]; or the gentleman from Arkansas [Mr. HAMMERSCHMIDT]; or the gentleman from Pennsylvania [Mr. CLINGER]; everyone else who seems to be in opposition to the Bosco amendment, but I really think in terms of public policy this is really what is in the bill, is the wrong way to go.

Therefore, I rise in support of the amendment offered by my very good friend and colleague from California [Mr. Bosco], to eliminate the passenger facilities charge [PFC's], also known as a head tax. Let Members be clear about one thing: Today we are talking about once again taxing the consumer. Regardless of how Members might call this, if it walks like a duck, if it quacks like a duck, and it smells like a duck, it has to be a tax. Even proponents of the passenger facility charge say that it was taxing power that local governments once had. However, the Congress long ago barred airport operators from imposing these taxes of their own on passengers passing through their airports.

After all, a nationwide Federal ticket tax was being imposed on these same passengers, and these same passengers should not be subject to this type of double taxation. This year, the administration has proposed that we change this policy and allow local airport operators to charge an additional tax on passengers, citing the need for enhancing airport capacity growth.

Mr. Chairman, it is no secret that for years capital improvements at our airports have been grossly underfunded. It is no secret that these necessary improvements are going to cost money. Today's debate is generated by the need to find adequate funding. However, consumers should not be asked again to pay for improvements when the moneys they have already paid are idling away in the Office of Management and Budget's version of a Swiss bank account.

In addition, we are not only looking at a passenger facility charge but a ticket tax increase from 8 to 10 percent because that was in the President's fiscal year 1991 budget proposal that the aviation ticket tax be increased from 8 to 10 percent. Now, many Members here oppose even that proposed increase, but the unfortunate truth is that the budget summiteers may well impose that tax increase despite our protests.

Mr. Chairman, the simple truth is that in the end it is the air traveler who is going to pay. The aviation trust fund established by Congress was designed to fuel airport growth and airline passengers have been paying into the aviation trust fund for that very purpose. The fact that the administration continues to bottle up the $7 billion surplus in the aviation trust fund should not become the excuse to tax the flying public twice for the same thing. Airline passengers are once again on the verge of being taken for a ride by the White House, and Congress should not license this latest slap at consumers.

Therefore, I urge my colleagues to support the Bosco amendment, strike the passenger facility charge from this bill, and get on with the financing of the airport construction needs by drawing down against the airport aviation trust fund.

□ 1130

Mr. Chairman, the proponents will say we are doing that exact thing, drawing down against the aviation trust fund.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 2 additional minutes.)

Mr. MINETA. Mr. Chairman, if the proponents are going to say that they have secured the agreement of the Transportation Appropriations Subcommittee to go with $1.8 billion for the Airport Improvement Program, that is a 1-year appropriations program for which the Senate last week already reduced that by $150 million. So, we are no longer at the $1.8 billion level, and, even with their proposal, of what they cite going out to fiscal year 1995 as the figures, they still show an unobligated surplus in the aviation trust funds of $5.3 billion.

Mr. Chairman, if that is the case, then why do we need this passenger facility charge? We do not need it. We do not need it.

So, Mr. Chairman, I am strongly in opposition to the imposition of the possibility of an aviation ticket tax going from 8 to 10 percent, based on the President's submission of his own fiscal year 1991 budget, and now, on top of that, asking for the possibility of adding this passenger facility charge of $3 per person for a two-segment trip. That means on a round trip a $12 increase in the aviation tax, or, in this case, the passenger facility charge, a $12 increase in the fare, and so to me this just does not make good public policy sense or good fiscal sense.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from California [Mr. Bosco].

Mr. Chairman, I am pleased to follow my distinguished colleague, the gentleman from California [Mr. MINETA] who applied the duck test to this passenger facility charge. If it walks like a duck, and talks like a duck and looks like a duck, my conclusion is it is probably a duck. We are not talking about that. We were talking about a user charge, not something that will be imposed on all Americans, but only those who use the facilities.

Mr. Chairman, the people I talked with, and I talked with a great many people who are frequent fliers including my colleagues here in the House, and they tell me they are willing to be subjected to an additional user charge if they are convinced that the fees collected will be used to improve service, enhance competition and improve safety, and that is what we are talking about.

I would urge all of our colleagues who might be undecided at this point to read the committee report. I have been privileged to be part of the committee that has developed this report and this legislation, and I support the passager facility charge for some very basic reasons.

First Mr. Chairman, is that it is optional. It is not mandatory. It is not mandatory. It is not the heavy hand of the Federal Government reaching out saying, "You must do this." What we are saying from Washington is, "You have the option of doing something, if you want to do it." Americans want that option.

Second, it is very limited in scope. It does not say that we can impose a user fee, a passenger facility charge, of $20, or $30, or $40. It places a limit of $3 and no more than two $3 charges per trip. Very specific. As the report language says, and I quote the language because I think it is critically important, "It is designed to enhance safety, capacity, security and airline competition in the national aviation system."

Mr. Chairman, that is what we all want. We spend a lot of time talking

about that, and I would point out that some enterprising airport operators cannot say we are going to launch this new passenger facility charge in our local unit of government to raise some revenue for some nonaviation-related purpose. It cannot be done. It cannot be done. The proposal has to be submitted to the Secretary of Transportation, and, as the report points out, it can be imposed, and we are talking now about the passenger facility charge, only to the extent that they are needed to support specific projects approved by the Department of Transportation involving safety, involving capacity, involving competition.

Then we put in a sweetener to this deal, and this is what makes it appealing to me. I was legitimately concerned, as all of my colleagues should be if they represent districts that do not have the major metropolitan airports, the major hubs. What about small town U.S.A.? What happens to those airports? That is the sweetener in the pot because, as the report points out, what we are going to do is increase Federal assistance that will be made available for smaller airports. The reported bill provides that large and medium hub airports which impose PFC's will give up half, 50 percent, half, of their formula funds for the airport improvement program. Seventy-five percent of the funds made available under this provision will be placed in a special fund for development of small airports, and that is what we want, my colleagues.

So, for all of the right reasons, it is optional, not mandatory, it is very limited in scope, it enhances safety, it encourages inceased competition, it improves capacity, it is very specific, and it will help the smaller airports, I urge that we proceed with this innovative approach, and I request opposition to the amendment of my distinguished colleague and good friend, the gentleman from California [Mr. Bosco].

Mr. CLEMENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support for H.R. 5170, the Aviation Safety and Capacity Act. This bill not only calls for increasing spending from the airport trust fund, but allows airports to have more flexibility and freedom to finance badly needed airport improvements.

Mr. Chairman, our Nation's airports are in a crisis. Many airports are seriously congested and the FAA estimates that many more will become congested unless greater investment is made in expanding airport facilities. Passenger delays cost air travelers and airlines about $5 to $6 billion each year due to lost time and wasted fuel and crew expenses, not to mention the losses to our local and national economies.

Recently, the Committee on Public Works and Transportation reported H.R. 5170 which authorizes the airport improvement program for next year at $1.8 billion. Tennessee airports alone need $435 million in capital improvements and expansion projects over the next 5 years for noise mitigation, runway and airfield expansion, and safety and security projects. Nationwide, airports need $10 billion each year to finance necessary expansion. Obviously, the airport improvement program alone will not be able to adequately fund total system needs.

Currently, Tennessee air carrier airports receive about $12.4 million in airport improvement program entitlements. A $3 fee to passengers could raise over $28 million each year. In addition, the $3 fee would support up to $235 million in bonds. These PFC funds would go directly into local projects to improve Tennessee airports, expand capacity, and reduce delays, and the moneys would not pass through Federal hands nor be tied up in the trust fund.

I commend the leadership of the Public Works and Transportation Committee for formulating a bill which recognizes that just spending down the trust fund is not enough to fund current capacity and safety projects at our Nation's airports. Airports need the option of raising additional capital funds through a local passenger facility charge. I urge my colleagues to support H.R. 5170 as reported by the Public Works and Transportation Committee and oppose any changes to the bill which will prohibit airports the option of financing airport improvement needs with a passenger facility charge.

□ 1140

Mr. INHOFE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Bosco amendment.

Mr. Chairman, I think this is probably the first time since I have been in Congress when I have arisen to speak against an amendment by a person whom I consider to be one of the most knowledgeable and intelligent Members of Congress, the gentleman from California [Mr. Bosco]. In addition, he is one of my closest and personal friends. I listen quite often in these Chambers to the words of wisdom that come from the gentleman from California [Mr. Bosco] and I am always a richer person as a result of it. It does show, however, that even occasionally a man of this character can be wrong, and in this case I believe he is wrong.

In order to predicate the two points that I want to make today, and I have been listening intently to all the debate that has taken place on the Bosco amendment, I crossed off almost everything I was going to say because it would be redundant for me to repeat it. There are two points that I want to make, but in order to make these I have to establish some credibility for making these points.

First, when the gentleman from California [Mr. Bosco] was talking about the amendment, it seemed to be an amendment to do away with taxation and to stop additional taxation in this country. I have to say that there are groups that have looked at us in Congress as to our relative interest in lowering spending and lowering taxation. One is the National Tax Limitation Committee that is located in California. I will read a paragraph here:

> The National Tax Limitation Committee was organized in 1975 to seek constitutional and other limits on taxation, spending and deficits, at the state and federal levels.

In keeping with the mission, periodically the National Tax Limitation Committee has analyzed voting records of Members of Congress on taxing and spending issues. This report covers the 100th Congress and analyzes the bills. The rating in the 100th Congress for myself in terms of stopping taxes and excessive spending was 87 percent, and that of the gentleman from California [Mr. Bosco] was 21 percent.

Second, as a predicate to my brief comments, I want to mention that I have a 35-year background in aviation. When I came to Congress, the first committee I wanted to be on was the Public Works and Transportation Committee. The first subcommittee was the Aviation Subcommittee, and the reason is twofold. First, aviation is the largest industry in my district in Tulsa, OK. I sometimes characterize it as the aviation capital of America.

Second, one specific employer is aviation, our largest employer, so it is very important to our economy.

Second, of course, with my personal background I am one who is licensed to pedal around in this airspace. I am one who has tried so hard relentlessly to get the Air Force trust fund off-budget and to have those funds spent for their designed purpose.

To me the fact that even though I am a Republican, and I know that the administration has come out for two tax increases, one being a 25-percent tax raising the passenger ticket tax from 8 to 10 percent, and the other was the aviation fuel tax, I was very aggressively opposed and have already spoken in opposition to these taxes. How can we pass a tax increase, as the gentleman from California says, when we have a $7 billion surplus in the Aviation Trust Fund that can be spent only for airport improvements and airway improvements?

But let us not get apples and oranges confused in this case, because only yesterday we passed out of the Public Works and Transportation Committee

a bill to take the highway trust funds and the aviation trust funds off-budget, and I hope we will be doing this.

What we are talking about here is some local options. What can they do at home? So with that predicate, let me only mention to you that this is not a tax increase. This is merely saying to the local entities, "You guys out there know what your needs are better than we do."

I have been privileged to serve at three levels of government. I was in the State legislature. I was mayor of the city of Tulsa, and I am now honored to serve in Congress. When I was mayor of the city of Tulsa, by virtue of being mayor I was the one who appointed the members of the airport authority. I also served on the airport authority.

I do not think anyone in this Chamber can name one airport authority in America that does not have at least one elected official who is responsible to the public.

Now, I have learned from serving at the local level, on the state level and the national level, that the closer you get to the people, the better job you have got to do of convincing them of needs, if you are talking about taxation.

What this does, the passenger facility charge, is offering the local entity the option, you know what your needs are. Are you willing to stand up for those needs and try to convince the public that those needs justify increasing a fee or establishing a fee, because no action we take up here is going to establish a fee for local use. In lieu of that, it is going to say to the local entity, if you can convince the people, you elected officials who are on the airport authorities that you should have this fee or the tax, then you go out and influence them to pass it.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. INHOFE was allowed to proceed for an additional 30 seconds.)

Mr. INHOFE. However, if you pass the Bosco amendment, what you are saying to the people at home is, "We know better what is good for you in Washington, DC, then you know back in Tulsa, OK, or out in California, so we are going to do what is best for you and we are going to take away your ability to take care of your own needs."

Mr. Speaker, I urge you to oppose the Bosco amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, let me first commend the chairman of the subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and the ranking members, the gentlemen of the full committee and subcommittee from Arkansas [Mr. HAMMERSCHMIDT] and Pennsylvania [Mr. CLINGER] for being the leaders in this legislation and bringing this legislation to the floor. It's a superbly crafted piece of legislation.

One of the reasons that I have heard today that people oppose the passage of this facility charge and support the amendment of the gentleman from California is that there is a large available balance in the aviation trust fund. I think there is perhaps a balance, but there is certainly at this point not a large available balance.

The fact that this is not going to be available is primarily based on an agreement that our Subcommittee on Transportation Appropriations has worked out with the Subcommittee on Aviation of the Public Works and Transportation Committee. Under this agreement, which is the linchpin of this legislation, we made a commitment to increase the appropriations out of the trust fund for aviation expenditures.

In this year in the House-passed version of the Transportation Appropriation legislation, we are going to be spending $700 million more out of the aviation trust fund than the receipts are going to be. This year we are spending just on facilities and equipment, $2.1 billion; for operations, $2 billion, which is a huge increase; on airport grants, $1.8 billion, which is almost a $400 million increase, and an additional $200 million for research and development.

□ 1150

As I said, these amounts exceed revenues by $700 million. In 5 years this balance will be practically depleted, and so there is not really an available surplus in the trust fund.

I strongly urge the defeat of the Bosco amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I really respect the chairman of the Appropriations Subcommittee on Transportation, but the part that troubles me, and I really appreciate the gentleman going to bat for the FAA in terms of the increased amounts that are available; the problem is that the aviation trust fund was created for making capital improvements for safety and expansion purposes.

All of these recitations of increases in spending against the aviation trust fund are for increasing the operations and maintenance costs out of the aviation trust fund, and to me that is just going against the very purpose for which it was created. It was 55 percent coming out of the aviation trust fund for operations and maintenance, and I believe under this bill it takes it up to 75 percent for operations and maintenance out of the aviation trust fund, and that is why the squeeze is being put on local airports to put this passenger facility charge on, because more of the aviation trust fund that was intended for capital improvements is going to operations and maintenance, and now we are saying we are going to shift that responsibility to local governments.

To me, that is the shift and the shaft, and we ought not to be doing it in terms of that approach.

I appreciate the chairman yielding to me.

Mr. LEHMAN of Florida. Mr. Chairman, reclaiming my time, I understand what my friend from California is saying, but by increasing the spending from 55 to 75 percent, we are reducing the subsidy for the cost of maintaining our air traffic control system from the general taxpayers to those who use it, and that is what I am in favor of.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the gentleman from California raised the issue that is appropriate in any kind of consideration of these bills.

The fact is that we established the trust fund for the purpose of building airports. In 1978, the Congress chose to do away with the excessive regulation of transportation airways. As a result, since 1978, the number of Americans traveling through our airports has more than doubled. That creates a tremendous strain on airways and airports. It means the old, outmoded equipment the air traffic controllers are now using must be updated. It must be replaced. These are capital expenditures.

For that purpose, the Congress established the trust fund that said 8 percent of the cost of a passenger ticket should go for the purpose of replacing that old, outmoded equipment, making our airways safe, building new airports. However, due to the decision that we have just heard discussed here of the Congress and the President saying that we will not use these funds, we will keep them sequestered, keep them locked away, we will make sure they do not flow for that purpose, since 1978 we have not built a single new airport in the United States. We have doubled the number of people traveling. We have not built a new airport.

As a result, you know what has been happening. The overburden is tremendous. The risks that people are taking when they travel are increasing. The number of investigators and people doing the enforcement and regulation has been diminishing. As a result, the FAA is facing a severe financial crisis.

Thus, we have the alternative here today which says that if Washington

will not do it, if the purpose for which we have collected the money is not going to be used, then let us allow people in Tulsa to do it for themselves. Let them tax those who travel through the airport, and we will use that money for what could have and should have been done by the Congress when it established the trust fund.

I would only add this, that we have faced this issue now for the past couple of years repeatedly, and I will continue to do so.

When the American people pay a tax for the purpose of maintaining safe airways, it should be used for that purpose.

As we stand here at this moment, there are $14 billion resting in the trust fund. They are available for the purpose to build airports, to update the FAA transportation system, to put in the secure and safe equipment that air traffic controllers need very badly, and yet we have chosen not to do it for the reasons that the Appropriations Committee chairman explained moments ago.

I believe that we should break that tradition. We should restore faith in the trust funds. We should release them immediately.

Mr. ROSTENKOWSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment which would strike the provision authorizing airports to impose passenger facility charges on airline passengers using those airports. The passenger facility charge provision creates a substantial new source of funding for the major capital needs of our nation's airports, which are faced with the enormous costs of needed capacity expansion and safety improvements.

In this time of large Federal budget deficits, it makes very good sense to permit our airports to pay more of their own way when they want to. This bill will mean reduced demand upon our limited Federal resources. It will permit airports to leverage their receipts from these passenger facility charges to meet capital needs. That means that fewer airports will need to wait for Federal improvement grants.

We are all well aware of the safety and delay problems faced by today's air travelers. Airport travel has grown dramatically in the past 10 years and existing funding sources simply cannot support this new demand and the problems that go along with it.

Chicago's O'Hare Airport has a massive delay problem which can only be alleviated by the development of a third airport. There is no way that this third airport, estimated to cost $4.9 billion, can be constructed within our current funding structure. This crucial project, and others like it across the country, cannot be built without Passenger Facility Charges contributing a portion of the cost.

Mr. Chairman, I urge my colleagues to join me in opposing the Bosco amendment.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

My understanding is that the bill authorizes a passenger facility charge of $1, $2, or $3, and that it also provides for apportionment of that fee not only to the hub airports but to small airports and to nonhub airports, so that it appears to me that there is a great deal of fairness and equity built into this provision of the bill.

Many of our larger cities, as the gentleman from Illinois just stated, are faced with very great and evident need for new or expanded facilities. The projections of their use in the future are very, very high, indeed. Chicago is obviously one of those cities that faces this severe problem.

This, of course, is not a federally imposed tax. It is, rather, Federal permission for a locally imposed user fee.

The sponsor of the amendment said that air travelers will be thankful if this passenger facility charge is not placed into operation, that they will complain if it is. Very frankly, Mr. Chairman, mine will not complain. What they complain about is airport delay. What they complain about is overbooked flights. What they complain about is no seats, no availability, and safety being compromised. They understand, and I think the American people understand, that you do not get something for nothing, that things that are useful and needed have to be paid for, and without this provision in the bill, Mr. Chairman, we are simply encouraging more and more borrowing, because that is where the funds will have to come from, borrowered funds.

Mr. Chairman, let us stop encouraging borrowing which, at the Federal level and State level and local level and in the private sector, is already way, way too high. Let us encourage people, if they wish to do so, to raise the funds locally, to provide for their needs through a user fee and to get the job done for air travelers all across this country.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, the bill is for a 2-year period, and it allows the imposition of passenger facility charges by the local airport authority, local government, for a 2-year period. But if the local airport authority decides to utilize 20-year revenue bonds or 30-year revenue bonds, that tax will be there for 20 years or 30 years for the duration of the amortization of those revenue bonds. So it is not just a 2-year facility charge. It is one that can go on for 20 or 30 years, and now to me, that is a borrowing authority that the gentleman just spoke against, and it just seems to me to be, again, bad public policy.

□ 1200

Mr. PORTER. I am reclaiming my time. The alternative to that apparently is all borrowing authority with no fee collected as you go along. It seems to me the answer to that is have the fee.

Mr. MINETA. If my colleague will yield further, it would not be, because under the airport improvement grant, it is in fact a grant program. It is coming in from the user fees that are generated from whether it is the aviation taxes paid by general aviation, by pilots or user fees paid for by the airline commercial passengers that are user fees.

Mr. PORTER. The gentleman is talking about the development fund that is not being spent or used?

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not like to differ with my appropriations subcommittee chairman, the gentleman from Florida [Mr. LEHMAN], but I find that I like this amendment and hope that we all support it.

To some extent I want to clear up something though here. We seem to have gotten into an apples and oranges kind of debate. Under the current, as I understand it, the proposed Airport Improvement Program, the passenger facility charges or passenger facilities are not qualifying assets to get airport improvement money, so we have sort of digressed here into the old debate about the surplus and the meaning of the surplus. And I might end up on the other side of the issue. But I would like to bring it now back to passenger facility charges and passenger facilities.

The thing that is wrong with this particular proposal of the administration incorporated in this bill is that for those of us who are advocates and adherents to deregulation in the aviation industry, this undermines the market discipline that we were trying to put in the deregulation of the airline industry. I can appreciate there are a lot of folks in this Congress who do not like aviation airline deregulation, and how everyone has crept their way back toward a regulated environment. The fact of the matter is this undermines the marketplace.

Passenger facilities today are constructed, but they are constructed using market discipline. The airport levies a charge on the airlines, pledges the revenues for the bonds. The air-

line is part of the negotiated equation. Airports, hub airports in America are major joint ventures, public/private joint ventures. What happens is the airline then can bargain with the airport to keep those charges as low as possible. The airport might want to increase them for added passenger facility capacity. But there is a negotiation, there is a marketplace mechanism that brings discipline, market discipline to the decisions on how much passenger facilities we increase, how many new concourses, how many new gates, how many parking ramps. Those decisions ought to be bound by market discipline.

This seeks to avoid market discipline allowing local authorities to levy a tax to build these concourses and parking ramps, and the other passenger facilities.

You may say that is OK, because there is some political discipline out there. But we are talking about major hub airports, the majority of the passengers of which do not live in the local jurisdiction that is levying the tax. It is awfully easy for an airport authority, whether elected or appointed, to levy charges on people that do not vote for them, for whom they owe no special responsibility. The fact is it is always easier to levy a tax on the transient. So there is no political discipline in the levying of these taxes.

My fear, based on some experience that I have had on our appropriations subcommittee, is that there is a motivation, a very strong motivation out of our airport managers around the country to build good facilities, needed facilities, but they all have a little twinkle in their eye about how they are going to make their airport bigger and more prominent than the next. They all have a motivation to try to improve their facilities beyond what the market will bear, to build facilities on speculation that at some point some other airline is going to come in and make their airport the new O'Hare of the world and bring prominence to their community.

I think the motivations and the forces and the human behavior in this is not on the side of the consumer. It is not on the side of airline deregulation. I hope that you will support the amendment of my colleague from California.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CARR. I am glad to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman has made some very important points here, and I would like to address the point he raised about market discipline.

There is an arrangement in airport construction under which the airline or airlines serving a particular airport negotiate runway improvements, runway enhancements, taxiway improvements, and gates. Under the majority and interest clause arrangements an airline or airlines can veto construction of new gates, can veto enhancement of airport capacity. So what you have at Detroit, Minneapolis-St. Paul, Memphis, St. Louis, single-carrier-dominated hubs, is a market monopoly. No other carrier can get in there to compete because there are not enough gates.

Under this legislation we prohibit the airlines from vetoing, from having a single veto over expansion to enhance competition and to enhance capacity.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CARR] has expired.

(On request of Mr. OBERSTAR and by unanimous consent Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, historically, and I have reviewed the history of airport construction since World War II and all of the major legislation that has been passed, airports have historically underbuilt rather than overbuilt. The gentleman is making the historic Taj Mahal argument. We have to prevent airports from building Taj Mahals.

Airports typically are under capacity rather than over capacity.

Finally, there is a further restraint by the requirement in the legislation that the revenue from the PFC must be project specific, approved by the Secretary, in conformance with the national airport plan. So we have some guarantees, I want to advise the gentleman, against overbuilding; but more importantly, protection that there will be competition at those single carrier dominated hubs which I think the gentleman should support.

Mr. CARR. If I might reclaim my time and respond to the distinguished chairman, who I know has worked very, very hard on this legislation, and I might add in the main I support the efforts of this committee, but I would merely say that I am not convinced.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CARR] has again expired.

(On request of Mr. OBERSTAR and by unanimous consent Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I do not have confidence that the limits that the gentleman speaks about are anything more than illusory. We see people in this political system having all kinds of incentives. I mean we might end up with airport capacity at a particular place, overcapacity which I think this PFC does. I think, yes, there are some undercapacities. I think in time those undercapacities will be fixed through the market mechanism. I fear PFC will lead to overcapacity, and we may have concourses and parking ramps in places in the country you will never believe based on what a Secretary of Transportation is going to do to elect his President for another term. I think those are the wrong incentives. They seem like they are good incentives, and they are checking and balancing, but I just do not have the faith in the political discipline that is not in this, and I do have more faith in the market discipline that I think is in the system without PFC's, and I would ask for support for the amendment.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I first really want to congratulate the distinguished gentleman from Minnesota [Mr. OBERSTAR], chairman of the subcommittee, and my good friend and colleague from Pennsylvania, the ranking minority member as well as the chairman of the full committee and the ranking minority member of the full committee for the tremendous amount of work that has gone into this bill. A lot of work has gone into it. It has been the product of a compromise. It means that we will be preparing for the 21st century. We are talking about our aviation business into the 21st century. That is what this bill is doing, and I could not be more grateful for the work you have put into this bill and moving our aviation industry into the 21st century.

What this bill will enable us to do is indeed to spend down the trust funds, to provide better air service, to provide better air facilities, to provide better safety in our airways, to provide more efficient air service. That is what this legislation is all about.

I want to associate myself with the remarks of the distinguished chairman of the Transportation Appropriations Subcommittee as the vice chairman of that committee because we believe that what you are doing here will permit us to modernize, to enhance, to improve our air facilities in a way that we have been unable to do in a number of years.

□ 1210

Yes, part of the money will be spent for air traffic controllers. It should be, it should be. That is what part of the air traffic control system is about, that is what air traffic safety is about. That is why we need to be able to spend money for our controllers as part of the system.

It will be spent for facilities, for radars, for equipment, for automated equipment to automate the air traffic system. It will be spent for passenger facilities as well.

So I congratulate the committee. I urge rejection of the amendment. It would be a terrible step backward be-

cause this legislation takes us into the 21st century.

Mr. Chairman, I urge defeat of the amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Bosco amendment.

Mr. Chairman, since 1978, air travel passengers have jumped from 266 million to 480 million.

The Federal Aviation Administration estimates that close to 775 million Americans will be carried across this country, through our skies by the year 2000.

The tremendous increase in passengers and in air freight activities has stretched our airports and airway systems beyond their capacities.

This year alone, it is estimated that passenger delays will total 117 million hours.

Unless we take steps now to expand and improve our air transportation system dramatically, our economy cannot continue to grow, and we cannot compete internationally as a great economic power.

Mr. Chairman, passenger facility charges are essential to ensure that America has the air transport system it needs.

We cannot fund the huge backlog of improvements solely from the Airport Improvement Program.

Although, thanks to the tireless efforts of Aviation Subcommittee chairman, Mr. OBERSTAR, this bill authorizes spending down the estimated $7.6 billion surplus in the aviation trust fund.

We urgently need local PFC revenues to help pay for hundreds of new terminals, runways, taxiways, aprons, and other improvements.

I want to assure my colleagues that H.R. 5170 strictly limits PFC revenues to airport improvements.

The bill requires that each PFC must be approved by the Secretary of Transportation to fund only projects which improve air safety, capacity, or security.

I want to make clear that PFC's are not a new Federal tax. PFC's are optional local airport user fees similar to bridge and highway tolls.

Mr. Chairman, America is at a historic crossroads. The world is changing rapidly and America must be prepared to meet the new challenges to our economy and our security. Germany, Japan, and many of our other competitors abroad are investing heavily in transportation infrastructure improvements.

They understand the importance of a first rate air transport system to a growing and productive economy. While our foreign competitors rebuild and expand their aviation systems, America has not built a major new airport since 1974.

If we are to compete successfully in today's tough global marketplace, if we are to expand our economy and provide good jobs for our people, we must have an aviation system second to none. H.R. 5170 establishes a new partnership between the Federal Government and local authorities to get the job done.

I strongly urge my colleagues to oppose this amendment and to support H.R. 5170. Let's not lose this very important opportunity, to give the Nation's airports the resources they need, to provide our Nation with the best aviation system in the world.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Bosco-Mineta amendment which seeks to strike this passenger facility charge provision.

I might say, first of all, that I am absolutely a deregulator and I believe in the deregulation of the airline industry. I believe it has been beneficial to the consumers and to the traveling public of America.

But I also understand the problems that have been associated to deregulation. I take issue with some statements that have been made on this floor today that claim that because we are not spending enough of the trust fund we are not building enough capacity.

The problems with deregulation right now are lack of capacity, because we have so many people flying today that otherwise would not have the opportunity to fly before deregulation. Our capacity is in serious disarray and jeopardy as a consequence.

We just do not have the capacity to handle the free market principles that have been applied to the airline industry.

We have to have more capacity. I disagree with some that say that the trust fund is not providing that capacity because it is not being spent down.

The main reason that we are having problems in providing more capacity for the increased traveling public is mostly local problems. People do not want an airport in their backyard, they do not want an airport to be expanded.

So we have to go farther and farther outside of major cities to build airports such as the situation presently in Houston.

There we are trying to build our third airport way west of town in order to serve those who are moving further and further west out of Houston. Yet we cannot build that airport because of many different reasons.

This bill will provide Houston the opportunity to raise local taxes through the passenger facility charge provision to pay for building that westside airport.

It will give the locals—and I might take issue with the gentleman from Michigan—it will give locals the opportunity to tax those that are using a facility that they have chosen to burden themselves with and to build.

I have seen nothing wrong with a user fee on those who are using the facility, no matter where they come from.

That is what this bill does. But the amendment strikes that.

Mr. Chairman, Federal funding for airport expansion and development is limited. On the Transportation Subcommittee of the Appropriations Committee, we have vehemently tried to provide adequate funding for airport expansion and development. But, as every single one of us knows, there are just not enough funds to go around. Passenger facility charges [PFC] will provide a needed supplement to Federal funds for airports, an estimated $1 billion a year.

Opponents of this provision point to the so-called surplus in the aviation trust fund as being sufficient to meet our aviation construction needs. But, Mr. Chairman, this is just not the case. This bill does provide for increased trust fund spending over the next 5 years. However, even with this increased spending, over the next 5 years Federal funds fall short. Our airports, particularly the small airports, still need the additional $1 billion that the PFC will generate. We cannot afford to wait.

The PFC provision will result in more airport projects—runways, taxiways, gates, and more. It is essential that we employ this provision to most effectively and competitively utilize our airport system. New airports are very difficult—and some would say practically impossible—to build. Consequently, we must make the best use of those that already exist.

I urge my colleagues to vote no on the Bosco-Mineta amendment and, instead, vote yes for less airport congestion, delay, and frustration.

Mr. SAVAGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the question here is accepted that there is a need and an urgent need for greater facilities.

But the debate reminds me of the joke that makes the rounds when the other major tax legislation is before us. The old joke about "Don't tax you, don't tax me, tax the guy behind the tree."

The problem, of course, is there is no "guy behind the tree."

We have to face up to the need. One of the reasons that we are suffering such a great deficit is that we recognize and often try to avoid paying for them. It would make you think that this is an election year or something, when they talk about—walk like a

duck, quack like a duck. Well, I say some of the evasive arguments I hear here indicate an unwillingness to stand up and pay for what we need. That would cause me to suspect that some of the quacks against this bill are really coming not from ducks but from chickens.

Mr. Chairman, let me just look quickly at some of these arguments. They talk about using the trust fund when we all know that what is left in the trust fund is greatly inadequate compared to the need for increased airport capacity.

□ 1220

We also know even though this is an attempt to evade this in the debate that this very bill begins to increase spending down in the trust fund. Fiscal year 1991 and fiscal year 1992 it proposes to spend down $2.3 billion additionally. Now, also when they try to say, "well, why not have bonds issued and make airlines pay for the bonds?" The problem with that, when the airlines pay for the bonds, that cost is transferred down to all airline passengers. The airline does not absorb that at the end. They pass it on. When they argue that, "Well, they would charge all airline passengers," the truth of the matter is, user fee is the best way to avoid charging all American taxpayers or all air travelers for what they do not use.

In this instance, we are saying discharge those who enplane at the airport, that needs greater capacity because of delays in the congestion. So if we really honestly are against the delays and the congestion so great at major airports, then how can we be for it if we are afraid to pay for it? The best way to pay is to have those who use it pay.

We can hold a fee, a tax, but that does not make a fee a tax any more than that old story from the Lincoln-Douglas debates, when Douglas asked Lincoln, "How many legs would a donkey have if you call his tail a leg?" And the answer, of course, is still four legs, because you can call a tail a leg, but you cannot make the tail a leg.

We are talking about user fees which in the end as a consequence of increasing competition, in the end will probably cost Americans nothing at all, and we will get the needed increase in airport capacity.

I thank the gentleman, and I rise in opposition to the Bosco amendment.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from California.

Mr. BOSCO. I admire the gentleman and all of the Members of Congress from Illinois because many of the speakers against my amendment, if the gentleman will notice, are from Illinois because Chicago wants to build a new airport. We understand that. Denver is building a new airport. They are not charging passengers to build it.

Does the gentleman want airline passengers from all over the country to pay for the airport?

Mr. SAVAGE. I take back my time to make one correction. Do not just talk about those who are for the bill. Recognize also that they and other speakers speaking against the bill happen to both be from California, so if they talk about who is from Illinois, talk about also who is from California.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of H.R. 5170 and in opposition to the Bosco amendment.

Mr. Chairman, I support H.R. 5170, and oppose the Bosco amendment.

I would like to say as a personal aside, it is a pleasure for me to be working with my neighbor in Minnesota, the chairman of the subcommittee, the distinguished gentleman [Mr. OBERSTAR]. Often we do not work together on issues on this floor, but I must salute his work on this particular bill.

Mr. Chairman, I oppose the Public Works and Transportation Committee included this new funding mechanism for airport capacity and noise control projects that do not depend on the Federal budget for financing. H.R. 5170 would lift the 17-year-old prohibition on local- and State-owned and operated airports imposing passenger facility charges. At the same time, reasonable limitations would be imposed to ensure their proper use.

As a member of the Tax Writing Ways and Means Committee, I do not regard this as a new Federal tax. The fact that PFC's are totally voluntary is crucial evidence that they are user fees rather than taxes. This bill sets no fee, nor delegates any agency to collect any fee. PFC's allow local governments some flexibility in responding to local aviation needs.

The revenues cannot be diverted to off-airport uses. The fees are collected at the local level and do not come back to the Federal Government. The money does not go into general revenues and does not go into the aviation trust fund. It does not go to any Federal fund.

Currently, aviation users are getting more than they are paying for, but their benefits are coming at the expense of the general taxpayer. The implementation of a passenger facility charge would focus benefits to the passengers at the airports they actually use.

The fee is a modest one—$1, $2, or $3 fee levels—and is limited to two fees per trip. The airports' ability to use this revenue on badly needed projects and enhancement may attract competitive new service. This is especially important at the HUB airports, such as the one in my district.

What we are really talking about here is getting the Federal Government out of the way and allowing local airport authorities the opportunity to choose whether or not they want to impose a fee to help reduce delays and enhance capacity. That seems a responsible proposal, and I, therefore, shall vote "no" so it is retained in the bill.

Mr. SANGMEISTER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Bosco amendment.

Mr. Chairman, it has been very interesting to sit here and hear these arguments this morning. I guess the duck thing has been overdone. I guess I also remember that started with Mr. Darman about a year ago, that a duck is a duck is a duck, but my good friend from Illinois [Mr. SAVAGE], whether it is a duck or whether it is a chicken, it is crowing or waddling its way straight to the Oval Office of the White House, and apparently this will be the first new tax that we are going to approve.

I hope that is not true, because obviously I rise in support of the Bosco amendment. It is kind of ironic that we have a piece of legislation that does two things in itself: first, raise taxes; and second, it also spends at the same time. Usually we have a separate bill to establish the taxes, and of course, an appropriation bill to spend, but in the context of this bill we can do both.

I have no objection, and I think it is a good piece of legislation, and I commend the chairman of the committee for bringing it forward. One thing it does do, we cannot deny, it does tax and it does spend. Maybe I am a little sensitive on that, but back in my district, and I am rather surprised, I might say, of the Republican opposition to this particular amendment, because back in my district, in fact, Republican leadership was there and said, "You know, if we get some of the outside Sangmeisters that like to tax and spend, we wouldn't have this Congress that we have in the Congress today," but now I see substantial support over on that side of the aisle for exactly that concept.

It is a passenger facility charge is what it is called, and I think maybe in the drafting of this there was a little bit of ingenuity put in it, because it is nothing more than a passenger facility tax. On the other hand, the thing that I would like to address, and some of the difficult things we have to do here, of course, is to oppose some of our good friends and colleagues that are on the opposite side of this issue. As has been indicated by the gentleman from California [Mr. Bosco], great initiative for this tax, of course, is coming from the city of Chicago and the mayor of that city, all of whom are good friends of mine, and after all, they have a parochial interest in get-

ting this done as I have, perhaps, a parochial interest in seeing that this does not happen.

We should be aware of the fact that there is a great contest going on for the location of the third major airport in the Chicago area, which apparently the Secretary of Transportation is putting his approval on and is going to happen. Originally, for 2 or 3 years, we have been studying four different sites, but all of a sudden a sixth site has appeared on the scene, and that is the one for the city of Chicago. I do not want to stand here and discuss the merits of whether that is a good site or not, but all of a sudden we see the city of Chicago feels that they will have to do something, apparently, because the Secretary of Transportation says there is going to be a third major airport in the Chicago land area.

But what does that have to do with the legislation before Members today? I want to tell Members it has an awful lot to do with it, because if this passes and the Bosco amendment is defeated, it means that the city of Chicago is going to be in a premier position to get the location of the airport exactly where they want it. Now, maybe that is all right with other Members, maybe Members think that that is fair. I frankly do not think it is.

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Mr. Chairman, they are Johnny-come-lately's on the scene, and at this point, this particular tax would allow them to raise somewhere, it has been estimated by Crane's magazine, at around $91 million a year that is going to be the income that the city of Chicago is going to have from this tax.

Mr. Chairman, I would say to my colleagues that, "You can go to any bonding company at that point and raise, I don't know how much, raise over a billion dollars easily when you can guarantee that kind of income to pay those bonds, and, as Chairman MINETA has indicated to you, under the provisions of this bill, that's an ongoing matter once those bonds are floated."

So in my district we have communities such as Cal City that are very concerned about this and I say to my colleagues, "You're going to dislocate in Cal City, and in Burnham and in Haguish, some 26,000 people who are going to have to be moved in order to put this airport in." Mr. Chairman, they are looking for somebody to stand up for their rights and for someone to express the opinion, and that is why I am here today, particularly for the residents of Cal City who are almost totally opposed, and certainly the mayor and city council is, to this new airport in this particular area to displace all these people. But they are not going to have a voice in it, my colleagues, once this tax has been put on, once it is levied by the city of Chicago, and they have this bargaining power. It is all going to be gone.

So, I tell my colleagues to seriously consider what they are doing here. Let us not have a tax-and-spend policy. Let us adopt the amendment of the gentleman from California [Mr. Bosco].

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from Chicago, IL.

Mr. LIPINSKI. Mr. Chairman, this committee that the gentleman talked about that is established to select a third airport; what is the makeup of that committee?

Mr. SANGMEISTER. Mr. Chairman, the original makeup of the committee was that there were four Members from Illinois, and four Members from Indiana, and one of those Members was from the city of Chicago. However, as my colleague knows very well, that has been changed now.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SANGMEISTER] has expired.

(On request of Mr. LIPINSKI and by unanimous consent, Mr. SANGMEISTER was allowed to proceed for 2 additional minutes.)

Mr. SANGMEISTER. Mr. Chairman, as the gentleman from Illinois [Mr. LIPINSKI] fully well knows, the commission is now being restructured, so there is going to be three representatives from the city of Chicago, and I thank the gentleman for reminding me, which gives them even one more upsmanship.

Mr. LIPINSKI. But there will be four from the State of Indiana, the sovereign State of Indiana, four from the State of Illinois, only three from the city of Chicago, and then there will be a chairman selected by the Secretary of Transportation?

Mr. SANGMEISTER. Mr. Chairman, the question that I have with that is: Why is the city of Chicago all of a sudden entitled to three representatives on this commission when 6 or 7 months ago they did not even have a site to offer?

Mr. LIPINSKI. Mr. Chairman, the city of Chicago has always had a site to offer. The thing was that the commission itself had rejected the site at the time because of its prejudice toward the city of Chicago.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from California.

Mr. BOSCO. Mr. Chairman, the question I would like to ask is: What is the fairness in asking airline travelers from all over the country, California, Tulsa, New York, and everywhere else, to pay for the airport that Chicago is building? Chicago is going to get millions, hundreds of millions of dollars, from that airport economically, and yet, to pay for the airport, they are going to be charging all of us from all over the country. We do not have any seat on any airport commission in Chicago; do we?

Mr. SANGMEISTER. No, we do not, absolutely. The gentleman from California [Mr. Bosco] is entirely correct.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, as the gentleman from California [Mr. Bosco], my very good friend, knows, this is a national aviation transportation bill, and there are probably 9 or 10 other cities that will receive as much revenue from this bill as the city of Chicago will. We are embroiled in a local controversy, and I simply want to make sure that everyone here on the floor knew that the passage of this bill really will have very little effect upon where the airport goes. There is an independent committee dominated by people from the State of Illinois and the State of Indiana who will make the decision.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SANGMEISTER] has expired.

(By unanimous consent, Mr. SANGMEISTER was allowed to proceed for 1 additional minute.)

Mr. SANGMEISTER. Mr. Chairman, there is no question about who the motivators in this legislation and this particular tax are. It was the city of Chicago. All my colleagues have to do is read any of the news articles and contact the media who have, day after day, said that, if this tax goes through, it will assure that the city of Chicago gets the next major airport, so there is no question about where this is being motivated from and what the eventual result is going to be if we adopt this tax.

Mr. Chairman, I strongly urge my colleagues to vote for the amendment of the gentleman from California [Mr. Bosco].

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from California [Mr. Bosco].

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Georgia.

Mr. RAY. Mr. Chairman, I rise in support of H.R. 5170, the Aviation Safety and Capacity Expansion Act.

This is much needed legislation which will assist our Nation's airports in making improvements in airport facilities. It is my hope that there will also be improvements in air service which continues to deteriorate.

I have received a great number of complaints in the Third District of Georgia about Atlantic Southeast Airlines [ASA]. I want to submit for the RECORD a letter I received from Mr. Mark Oropeza, airport director of the Co-

lumbus Metropolitan Airport. In this letter, Mr. Oropeza documents the large number of cancellations by ASA.

It is important to the citizens of the Third District to receive adequate air service. ASA has let them down, and continues to do so. I am hopeful that ASA will do a better job in the future.

COLUMBUS METROPOLITAN AIRPORT,
Columbus, GA, January 3, 1990.

Congressman RICHARD RAY,
Cannon Office Building, Washington, DC.

DEAR CONGRESSMAN RAY: Earlier this year, you asked that the communities within your district who are served by ASA to keep you informed regarding their cancellation performance. Enclosed please find a recap of ASA's performance in the Columbus market from June 20, 1989 to December 31, 1989. During this 195 day period, ASA has cancelled either a departure or arrival 117 times. In reviewing the data, it is interesting to note that rarely does ASA have an arrival into Columbus and then cancel the following departure. By and large the flight is cancelled in Atlanta resulting in a cancellation in an arrival and departure for the Columbus market. This, of course, means that we have passengers of who are inconvenienced at both ends of the Atlanta-Columbus-Atlanta segment of their flight.

If you will recall at our meeting with ASA and Delta representatives in Atlanta, ASA indicated that they were constructing a new expanded maintenance facility in Macon. As recently as last week, I spoke with the airport director in Macon and he has indicated that ASA's cancellation rate has not improved. Likewise, in reviewing the data from Columbus, we have not seen an improvement either.

Hopefully, the enclosed information will assist you with your deliberations with ASA at the congressional level. If I may be of further help, please let me know.

Sincerely,

MARK OROPEZA,
Airport Director.

ASA Flight Cancellations

Number	Carrier	Flight No.	Departure/Arrival	Time	Date	PAX.Bkd.	Remarks
1	ASA	2086	Departure	10:15A	June 20, 1989		Fuel leak.
2	ASA	2074	Departure	11:14A	June 20, 1989		N/A.
3	ASA	2079	Arrival	5:26P	June 20, 1989		N/A.
4	ASA	2080	Departure	5:40P	June 20, 1989		N/A.
5	ASA	2077	Arrival	3:10P	June 23, 1989		Maintenance.
6	ASA	2078	Departure	3:42P	June 23, 1989		Maintenance.
7	ASA	2079	Arrival	5:26P	June 25, 1989		Maintenance.
8	ASA	2080	Departure	5:40P	June 25, 1989		Maintenance.
9	ASA	2079	Arrival	5:26P	July 8, 1989		N/A.
10	ASA	2080	Departure	5:40P	July 8, 1989		N/A.
11	ASA	2077	Arrival	3:10P	July 12, 1989		N/A.
12	ASA	2078	Departure	3:24P	July 12, 1989		N/A.
13	ASA	2085	Arrival	10:00A	July 14, 1989		N/A.
14	ASA	2086	Departure	10:15A	July 14, 1989		Maintenance.
15	ASA	2074	Departure	11:14A	July 19, 1989		Maintenance.
16	ASA	2079	Arrival	5:26P	July 19, 1989		N/A.
17	ASA	2080	Departure	5:40P	July 19, 1989		N/A.
18	ASA	2079	Arrival	5:26P	July 21, 1989		N/A.
19	ASA	2080	Departure	5:40P	July 21, 1989		N/A.
20	ASA	2073	Arrival	10:49A	July 25, 1989		N/A.
21	ASA	2074	Departure	11:14A	July 25, 1989		N/A.
22	ASA	2092	Departure	2:05P	July 26, 1989		Maintenance.
23	ASA	2085	Arrival	10:00A	July 30, 1989		Maintenance.
24	ASA	2086	Departure	10:15A	July 30, 1989		Maintenance.
25	ASA	2082	Departure	7:30P	July 30, 1989		Maintenance.
26	ASA	2092	Departure	2:05P	August 2, 1989		Maintenance.
27	ASA	2091	Arrival	1:55P	August 3, 1989		Maintenance.
28	ASA	2092	Departure	2:05P	August 3, 1989		Maintenance.
29	ASA	2092	Departure	2:05P	August 4, 1989		Maintenance.
30	ASA	2077	Arrival	3:10P	August 6, 1989		Maintenance.
31	ASA	2079	Arrival	5:26P	August 8, 1989		N/A.
32	ASA	2080	Departure	5:40P	August 8, 1989		N/A.
33	ASA	2079	Arrival	5:26P	August 9, 1989		Maintenance.
34	ASA	2080	Departure	5:40P	August 9, 1989		Maintenance.
35	ASA	2077	Arrival	3:10P	August 12, 1989		Maintenance.
36	ASA	2083	Arrival	10:50P	August 12, 1989		Maintenance.
37	ASA	2079	Arrival	5:26P	August 14, 1989		Maintenance.
38	ASA	2080	Departure	5:40P	August 14, 1989	10	Maintenance.
39	ASA	2072	Departure	8:40P	August 15, 1989	26	Maintenance.
40	ASA	2077	Arrival	3:10P	August 18, 1989		Maintenance.
41	ASA	2078	Departure	3:42P	August 18, 1989	57	Maintenance.
42	ASA	2086	Departure	10:15A	August 21, 1989	13	Maintenance.
43	ASA	2091	Arrival	1:55P	August 29, 1989		Maintenance.
44	ASA	2092	Departure	2:05P	August 29, 1989	13	Maintenance.
45	ASA	2073	Arrival	10:49A	September 5, 1989		N/A.
46	ASA	2074	Departure	11:14A	September 5, 1989	25	N/A.
47	ASA	2083	Arrival	10:50P	September 16, 1989		N/A.
48	ASA	2072	Departure	8:40A	September 17, 1989	19	N/A.
49	ASA	2083	Arrival	10:50P	September 25, 1989		N/A.
50	ASA	2072	Departure	8:40A	September 26, 1989	17	N/A.
51	ASA	2091	Arrival	1:55P	September 29, 1989		N/A.
52	ASA	2092	Departure	2:05P	September 29, 1989	21	N/A.
53	ASA	2077	Arrival	3:10P	September 30, 1989		N/A.
54	ASA	2078	Departure	3:24P	September 30, 1989	15	N/A.
55	ASA	2073	Arrival	10:49A	October 2, 1989		N/A.
56	ASA	2074	Departure	11:14A	October 2, 1989	18	N/A.
57	ASA	2083	Arrival	10:50P	October 2, 1989		Maintenance.
58	ASA	2072	Departure	8:40A	October 3, 1989	15	N/A.
59	ASA	2073	Arrival	10:49A	October 3, 1989		N/A.
60	ASA	2074	Departure	11:14A	October 3, 1989	18	N/A.
61	ASA	2085	Arrival	10:00A	October 4, 1989		N/A.
62	ASA	2086	Departure	10:15A	October 4, 1989	11	N/A.
63	ASA	2085	Arrival	10:00A	October 16, 1989		WX.
64	ASA	2086	Departure	10:15A	October 16, 1989	12	WX.
65	ASA	2079	Arrival	5:26P	October 18, 1989		Maintenance.
66	ASA	2080	Departure	5:40P	October 18, 1989	9	Maintenance.
67	ASA	2083	Arrival	10:50P	October 19, 1989		N/A.
68	ASA	2072	Departure	8:40A	October 20, 1989	14	N/A.
69	ASA	2083	Arrival	10:50P	October 23, 1989		N/A.
70	ASA	2072	Departure	8:40A	October 24, 1989		N/A.
71	ASA	2073	Arrival	10:49A	October 25, 1989		N/A.
72	ASA	2074	Departure	11:14A	October 25, 1989		N/A.
73	ASA	2077	Arrival	3:10P	October 26, 1989		Maintenance.
74	ASA	2078	Departure	3:24P	October 26, 1989		Maintenance.
75	ASA	2085	Arrival	10:00A	November 1, 1989		Maintenance.
76	ASA	2086	Departure	10:15A	November 1, 1989	13	Maintenance.
77	ASA	2081	Arrival	7:20P	November 3, 1989		N/A.
78	ASA	2082	Departure	7:30P	November 3, 1989		N/A.
79	ASA	2085	Arrival	10:00A	November 6, 1989	34	N/A.
80	ASA	2086	Departure	10:15A	November 6, 1989		N/A.
81	ASA	2077	Arrival	3:10P	November 9, 1989		Maintenance.

ASA Flight Cancellations—Continued

Number	Carrier	Flight No.	Departure/Arrival	Time	Date	PAX.Bkd.	Remarks
82	ASA	2078	Departure	3:24P	November 9, 1989	35	Maintenance.
83	ASA	2077	Arrival	3:10P	November 10, 1989		N/A.
84	ASA	2078	Departure	3:24P	November 10, 1989	21	N/A.
85	ASA	2085	Arrival	10:00A	November 12, 1989		N/A.
86	ASA	2086	Departure	10:15A	November 12, 1989	9	N/A.
87	ASA	2083	Arrival	10:50P	November 15, 1989		WX.
88	ASA	2081	Arrival	7:20P	November 15, 1989		WX.
89	ASA	2082	Departure	7:30P	November 15, 1989	5	WX.
90	ASA	2079	Arrival	5:26P	December 1, 1989		N/A.
91	ASA	2080	Departure	5:40P	December 1, 1989		N/A.
92	ASA	2091	Arrival	1:55P	December 4, 1989		Maintenance.
93	ASA	2092	Departure	2:05P	December 4, 1989	17	Maintenance.
94	ASA	2077	Arrival	3:10P	December 4, 1989		N/A.
95	ASA	2078	Departure	3:24P	December 4, 1989	22	N/A.
96	ASA	2081	Arrival	7:20P	December 8, 1989		N/A.
97	ASA	2082	Departure	7:30P	December 8, 1989	20	N/A.
98	ASA	2085	Arrival	10:00A	December 9, 1989		N/A.
99	ASA	2086	Departure	10:15A	December 9, 1989		N/A.
100	ASA	2072	Departure	8:40A	December 10, 1989	18	Maintenance.
101	ASA	2091	Arrival	1:55P	December 12, 1989		WX.
102	ASA	2092	Departure	2:05P	December 12, 1989	13	WX.
103	ASA	2079	Arrival	5:26P	December 12, 1989		N/A.
104	ASA	2080	Departure	5:40P	December 12, 1989	3	N/A.
105	ASA	2072	Departure	8:40A	December 18, 1989		N/A.
106	ASA	2073	10	10:49A	December 19, 1989		N/A.
107	ASA	2074	Departure	11:14A	December 19, 1989		N/A.
108	ASA	2085	Arrival	10:00A	December 21, 1989		WX.
109	ASA	2086	Departure	10:15A	December 21, 1989		WX.
110	ASA	2073	Arrival	10:49A	December 21, 1989		WX.
111	ASA	2074	Departure	11:14A	December 21, 1989		WX.
112	ASA	2091	Arrival	1:55P	December 23, 1989		WX.
113	ASA	2092	Departure	2:05P	December 23, 1989		WX.
114	ASA	2085	Arrival	10:00A	December 24, 1989		WX.
115	ASA	2086	Departure	10:15A	December 24, 1989		WX.
116	ASA	2081	Arrival	7:20P	December 29, 1989		N/A.
117	ASA	2082	Departure	7:30P	December 29, 1989		N/A.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in strong support of the amendment of the gentleman from California [Mr. Bosco]. I think there are four primary problems with the proposed passenger facility charge.

The first, Mr. Chairman, is that it represents an abdication of our national responsibility. Second, I believe it will lead to a national aviation policy that will be developed randomly through local initiatives. Third, I think that it will continue a very ominous trend from the 1980's, and that is the strong will get stronger, and the weak will atrophy. Lastly, this is a new regressive tax, particularly for those living in rural areas, those who must use hub airports and use a connecting flight.

During the decade of the 1980's the administration and Congress failed to resolve their differences regarding investing in our national aviation structure. That was a bipartisan failure, and in many instances it revolved around conflicts of committee jurisdiction. It is regrettable, but we should not compound the mistake.

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The abdication of our responsibility during the 1980's should not now be foisted on to the municipalities and States of our Nation.

During the subcommittee markup, the chairman of the committee, the gentleman from Minnesota [Mr. OBERSTAR] very rightly pointed out that our national responsibility is enormous; but now instead of making the hard decisions regarding the expenditure of trust fund moneys and raising additional Federal revenues to fully support a comprehensive national aviation transportation policy, some would have us shift this responsibility to the locales. It is unfortunate, given the unique nature of air travel and the control systems needed to ensure its safety and efficiency, those ought to be developed with a national perspective.

Second, it is my fear that not only are we abdicating our Federal responsibility, but we will be creating a national policy scheme that is randomly driven by the local ability to raise money. If you are strong, you are going to get stronger and your airports are going to get bigger. In relative terms, if you are a medium-sized facility or if you are a small rural airport, you are going to die on the vine and those 9 or 10 airports cited earlier in the debate are going to call the shots in terms of what our national aviation policy should be.

Finally, this is a new tax. This is a new user charge. In any event, it is going to provide the ability of those who run airports to take $3 to $6 out of each of your pockets during each flight.

Mr. Chairman, I ask all my colleagues to support the Bosco amendment. I think my colleague, the gentleman from California, is absolutely right. I think the passenger facility charge is a bad idea.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I hasten to point out that I am not from the State of Illinois, but from Pennsylvania. I am still opposed to this amendment for some very, very sufficient reasons.

I want to ask all our colleagues to think for a moment about the last time that they sat waiting in an airplane to take off, that they were delayed and inconvenienced because of congestion at an airport. I would suggest probably for most of us it was just last weekend, or I would ask my fellow Members to think of the mail or the phone calls they have received from their local airports pointing out the very real needs that those airports have to keep up with what has been a burgeoning explosion in the use of aviation as the preferred means of travel.

Every airport in this country has unmet needs. It is estimated that nationwide we have $10 billion of need each year for the next 10 years. Those needs are going to be unmet certainly in the near term without the passenger facility charge. Let us make no mistake about this. This is a gutting amendment. It is going to slow airport development to a snail's pace.

Let me take just one example, San Jose. The capital needs of the San Jose Airport that have been identified over the next 5 years total $96 million. The estimated entitlement funds which San Jose will receive in the next 5 years total $16 million.

Now, with a PFC, the San Jose Airport is estimated to receive about $43 million. That sum would enable the San Jose Airport to go into the bonding market to the tune of about $86 million, which will go a long way toward meeting its total capital needs.

The idea that we should first spend down the trust fund will not solve San

Jose's problem. There is going to be a shortfall between what is the identified capital needs of the airport for the next 5 years and the amount the airport will receive from the fund of about $80 million.

So what can San Jose do? What can any airport do that finds itself with this kind of a shortfall?

Well, first, of course, it can just delay capital projects that are necessary to address their capacity problems and wait until their entitlements funds or discretionary funds out of the Airport Improvement Programs become available.

Second, the gentleman from California [Mr. Bosco] referred ealier to the tooth fairy. They can hope that maybe the tooth fairy under cover of night will expand the airport or extend the runway or build a new terminal. Elves or tooth fairies are about the only other option they have, or they can indeed hope that the PFC amendment is defeated and the PFC does become available.

Mr. Chairman, to review some of the elements that have been kind of lost in debate of what the PFC is and what it is not, first of all I have to stress these funds cannot be used for anything except air side improvements, and that means to improve capacity, to improve the security at the airport, to effect noise reduction programs, and so forth, and to provide new gates. That is all that these funds can be used for. They cannot be used for off airport purposes, for access roads or other embellishments, so the idea that this is somehow going to be a boondoggle, that airports are going to be massively overbuilding in all directions, just is not true.

Second, the thing that it will do is provide very, very good oversight from the FAA.

I want to point out in response to one of the charges made that we would have these things imposed for 30 years or more, on frivolous projects that will go on and on. I would call the attention of the committee to our committee report which says that we expect that the PFC's will be approved only to the extent necessary to support specific AIP eligible projects achievable within a reasonable period of time. The Secretary should not approve a series of vague future projects permitting a PFC to be collected indefinitely, even if the law's limitations on new PFC's takes effect.

So we have clearly indicated in our report that we expect this privilege to be used with some considerable restraint.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. CLINGER. Mr. Chairman, I would just remind the members of the committee that we are talking here about a very carefully negotiated agreement between the administration, between the Appropriations Committee, and between this authorizing committee.

What this bill provides is that the trust fund is going to be drawn down, and if it is not drawn down in accordance with the commitment, then the authority to impose a PFC is revoked. We have that lever in there to require that the trust funds be drawn down.

Now, what the PFC is not, and I think this has to be stressed again and again, this is not a tax. It is a local option. It is an option which can be provided to an airport upon demonstrating a need for that PFC to impose a local user fee for a local project. These funds do not come anywhere near the Federal Treasury. All the bill does is restore an authority which airports had up until 1973. They abused that authority in that time, and that is why we revoked it. We have put very strict controls into how that passenger facility charge can be used now and there is excellent oversight provided.

Mr. Chairman, the point is, the bottom line here is that the need is there. The capacity needs are desperate. They are critical, and the bottom line is somebody has got to pay, and the passenger ultimately is going to pay. He is either going to pay through increased fares or through this passenger facility charge, which is, I think, the far preferable means because it is controlled. It is limited in time. It is directed to specific projects, and it expires when that project is constructed, so I think it is the fairest way to go about meeting the critical capacity needs of this country, and significantly improve our air transportation system.

Mr. Chairman, I strongly urge our Members to vote against the Bosco amendment.

Mrs. COLLINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Bosco amendment.

I believe that most of you are aware of the fact that for many years now I have been extremely concerned about airplane safety and about the security of our airports.

As chairwoman of the Government Activities and Transportation Subcommittee, we have had investigations and held hearings on a wide range of issues over these past several years about those things: Aviation safety, airport security and air traffic control and so forth. That is one of the reasons why after our subcommittee has had all these investigations, I am convinced that it is necessary that we do in fact need the passenger facility charge.

□ 1250

To every traveler around the country, and to every subcommittee that has engaged in various related investigations, it becomes clear that there is an infrastructure undercapability in our Nation. Aviation is the preferred mode of travel in our country today, and we have to do something to make it safe and secure for everybody.

Every time you pick up a newspaper or you see on television where there has been a near miss someplace, all of the blame is supposed to be placed on the air traffic controllers.

That is not the only reason why. One of the reasons why is because we do not have sufficent runways, and in order to try to accommodate the large, vast number of passengers who are traveling in and out of our airports we try to move them a little bit closer together, thus creating a climate and situation of perhaps a little more danger.

A lot of the blame is also supposed to be placed on the FAA. I have certainly been one to place sufficient blame on the FAA time and time again. The matter does not rest solely with the FAA. The matter rests with the fact that we do not have sufficient infrastructure in our country to make sure that we have adequate facilities, adequate gates, adequate runways, more terminals more airports.

It seems to me that any passenger who flies anywhere ought to be willing, ought to be eager to pay a few dollars to try to have the safety factor that is involved here. I know I certainly would be, and I am sure everybody else would say, "There is nothing wrong with paying a user fee if I am going to use the facility that I am flying into. Certainly I am willing to pay to use that facility that is safe, that is secure, that when we land we do not have to be worried about landing on a short runway, we do not have to wait for half an hour to get to a gate, we do not have to be put in the penalty box because somebody else is already there," and so forth.

It just makes good sense, and I would urge all of my colleagues to defeat this amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I would like to thank the gentlewoman for her statement which was very thorough and sound, but more to compliment her for the splendid persistent work she has done over so many years ensuring the safety of the air traffic control system. When she speaks on that issue with the perspective that she does, she brings great dignity to this debate and to the assurance of safety in our air traffic control system.

Mrs. COLLINS. I thank the gentleman.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Bosco amendment and find myself in unusual agreement with the administration and Secretary Skinner on this issue.

This is not an issue of Chicago versus Indiana or Chicago versus Illinois and other parts of the State. This is an issue of whether or not we are going to have an adequate and a safe and a competitive air transportation system into the next century.

Even if we spend every single cent in the aviation trust fund over the next 4 to 5 years, there will be $50 billion of unmet needs out there. The aviation trust fund, colleagues, is not spent for expansion of terminals. So to say that, well, this is just going to subvert the existing system, it does not subvert the existing system, because the existing system is not intended to fund many of the activities that we are talking about here that are all airside improvements, all airport improvements, but things not generally funded currently out of the ticket tax.

It is, first of all, about capacity and safety, and I do not have to tell you about that, because we all fly a lot, and we are all delayed a lot. We know that a good reason for many of those delays is the fact that the system we now have is not adequate, and we have not built a new airport in this country in many years. It is about competition. Talk to your local airport, ask them if there are any new airlines that want to come in there or talk to the airlines themselves and ask them, "Would you like to provide service into my State, into my airport?" In many cases the answer is, "Yes, but we cannot get a gate. There are no more gates at that airport. They are all locked up in the current contract with TWA, United, or with American," and many of you live in areas where this is the case.

This will provide the additional gates and the capacity we need at the terminal to bring in new competition, to help keep prices down into the future.

Finally, it is about equity. There has been, you know, a lot of talk here about this is inequitable in the way we are going to raise this tax. It is exactly equitable, because you do not have to pay the tax in Chicago if you do not go to Chicago. The people who use these airports will pay for the improvements that are needed for the future and the present capacity of those airports.

My own local jurisdiction recently built a new airport terminal. It is done, and I do not have a dog in this fight. We do not need the passenger facility charge. We could have used it though, because the airport authority could only raise taxes within one city in my district. I happen to live in the city across the river, and I use the airport for free, and the people in the city of Eugene are paying the tax for the bond issue, the general property tax.

Many of you have similar situations. Portland, in the north of Oregon, borders another State, and even if they could levy a tax that covered some substantial portion of the Portland metropolitan area, they could not levy a tax on the people of Washington who use that airport.

The fairest way to raise those funds is to tax the people through a passenger facility charge who use that airport, not all of your constituents, not your constituents who do not fly, not other people's constituents who do not use the airport.

This is fair. It is equitable. It gets us the capacity. It gets us to the competition, and it gets us the equity we need.

I urge my colleagues to vote no on the Bosco amendment and yes on final passage of the bill.

Mr. APPLEGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Bosco amendment. My arguments may be somewhat redundant in all of this. However, let me just say this, that I certainly understand the arguments that are being made by the big-city Members who have big airports, who say that they need the improvements to their airport facilities.

But, also, let me point this out, that the trust fund is there for the purpose for which passengers are being taxed in the first place, and now are being asked to be taxed again. And why? Why, I ask, is this necessary?

I do not think it is necessary. At least, it is not needed now until at least the fund is depleted. I mean, let us use the surplus that we have now.

Why do we have the surplus? Why is it not being used? Well, I will tell you why. It is not being used, and I think everybody knows it, and it has been stated that it is being used for the purpose of showing a smaller budget deficit.

Let us take the trust fund; let us take all of the trust funds, let us take the highway trust fund, this trust fund, let us take all of them off budget and show what the actual budget deficit really is.

This only hinders the ability to be able to spend this money on the purposes for which it was taxed in the first place. So why should passengers be asked to be double taxed? It does not make sense.

Being one who lives in a rural area, where my people either have to go to Columbus or Cleveland or Pittsburgh or Chicago, they are the ones who are going to be hit hard. They are going to be hit hard, harder than most of the others. I do not think that it is necessary.

I think that safety is far too important to be so lightly disregarded by using the trust fund for political purposes, and the purpose is to show a smaller deficit.

I think that passengers, because of this, not only being double taxed, are being placed in double jeopardy. So let us forget about that, release the trust fund now, spend the surplus that we have, and forget about putting a new tax on the passengers in this country.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support and ask my colleagues to give consideration to, and then hopefully vote for, the Bosco amendment.

If this new tax passes, there will not be enough airsick bags on the planes to take care of the nauseated public. Passengers all over this country are going to be nauseated with this.

This is a new tax. Oh, I know, some say no, it is not a t-a-x. It is a f-e-e, fee. Quack, quack, quack.

This new tax came out of the administration. Secretary Skinner first brought it up. It is going to be interesting to see how our colleagues on the Republican side who have newly come out of a caucus in which they said they are not going to vote for any more taxes, it is going to be interesting to see how they quack on this one.

□ 1300

Well, I am making a little light of it, but it is a serious matter. I think the seriousness goes beyond just this tax.

In the early days of the United States, America went through a great test, and that was whether we were going to be 13 countries or 1. We go through that test periodically. Today the test is whether we are going to be 50 countries, each pulling its own way, or one.

One of the great symbols of whether or not this country is going to pull together, unify, share, express concern one for the other, is how we tax each other.

In the early days of this country, when we had decided that we weren't really a United States, our taxing system was made up of fees. Americans remember the toll roads.

Our early taxing structure was that of a toll road mentality. When you were in Pennsylvania, you paid Pennsylvania. Then as you came across the border and you landed in your carriage in the next State, you paid the toll at the next State. You paid Connecticut or Massachusetts or New York. The user paid for whatever the user consumed. Toll road taxation. It was the hallmark of a nation divided.

Years later America decided with our general use that we should not do it that way, we should really move to a massive system of taxing, and pay into

a central fund through a system called the progressive income tax. In that way we would show each our concern for the others, my constituents in Montana showing through the taxing structure their concern for the welfare recipients living in New York, and New Yorkers in turn showing their concern for the traveling public, the farmers the ranchers, of Montana.

Now, under former President Reagan America began for the first time in many years to once again abandon the notion of a central system of progressive taxation, and we began to move instead back toward the toll road mentality.

Members all remember the findings of the Grace Commission. Among them were that people that go into Yosemite or Glacier or Yellowstone National Park should have to pay the cost of maintaining that park with their entry fee. So fees would go from $5 to $50. But, after all, the user should pay, as if Yellowstone did not enrich all America.

Now we are telling the traveling public you must pay if you are going to use this great transportation system of the United States, and pay through a fee. You must be a contributor for the airport where you have just landed.

I suggest that this tax, which would cost the traveling public $2 billion, with a "b," $2 billion in tax increase over the next 24 months, as important as it is, that $2 billion is important for another reason. Because this new tax, this new user fee tax, represents a long step in the wrong direction, back toward the days of toll road taxation.

Mr. Chairman, do not take that step. Vote for the Bosco amendment.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from California [Mr. Bosco], as well as the gentleman from California [Mr. MINETA], for their very, very important amendment. It is important beyond that which it would accomplish, which is to ultimately refuse to allow the imposition of this tax, as the gentleman from Montana [Mr. WILLIAMS] has indicated, but also because of the importance as it relates to something that has yet to be discussed in this debate.

Just who was it that decided to build these airports in the first place? Did the people from northern California get together one day and say, "You people in Chicago should have an airport"? Did the people in rural Fayetteville, AR, say, "Heck, we can't get to South America. You people in Miami better build us an airport"?

Everybody knows what the true story is. The people who live in jurisdictions where these airports are now located thought it was in their best interests to build these airports. The Federal Government does not have a policy vis-a-vis airports, like it does vis-a-vis roads. There is no national airport interstate. There is no set of connected airports.

Yes, we control the airports nationally. Yes, we control safety. Yes, we control a lot of other things. Yes, we have an airport tax. Yes, we have a trust fund. But nobody says to a particular area, "You must build an airport." That is a local decision.

Do you know why they build them locally, folks? They build them because it is good for that locality. Nobody builds an airport because it is good for the folks in Duluth. It is good for them.

When folks in Chicago or New York or Detroit or Miami or Phoenix or Los Angeles wanted to bring people into their cities, tourists, businesses, permanent residents, they decided to build an airport.

I can tell Members that they did not care at all what the people in Sopchoppy, northern Florida, thought about whether or not they were building an airport in that jurisdiction.

But now, oh, now it is different. Now it is, "Why, it is for your benefit, not ours, if we expand our runways and expand our capability to bring more planes in with more gates, and we put on more safety factors," which frankly is a joke. That will never happen because the Federal Government is not going to permit that to happen, because they are not going to spend out the trust funds.

What is going to be the benefit to the traveling public? Nothing but being able, for the privilege of using an airline which does not have a nonstop flight, they will get on a flight that makes a stop there and tells them, "You have to stop there whether you like it or not," that they are going to pay that city that decides to impose this passenger facility charge for the privilege of being able to stop in that city, when that city wants to do it because it is good for them economically, because it will bring more business to that city, because it will bring more industry to that city, because it will bring more tourists to that city.

Why is it that this debate is all centered around what good is it going to be for everybody else but the place that the airport is located? Those people coming in on those planes were not the ones that made that decision in the first place. Members all know that.

To impose this tax on those people that have to go and stop there when that is not their final destination, because there is not an airline that you get on from where they are to do that, is to tax them once again.

The gentleman from Montana [Mr. WILLIAMS] is absolutely right. I am curious as to whether or not all these people who do not want to tax Americans, how they are going to vote on this issue. I can tell you how I am going to vote. I am going to vote with the gentleman from California [Mr. Bosco] and the gentleman from California [Mr. MINETA] and the other supporters of this amendment, to take this ridiculous provision out of this otherwise good bill.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Do not tax Americans because people in the local areas who have an airport, who built it on their own, do not tax them because those people want to make their airport bigger and better for their own benefit. Chicago would still be a minor city without the advent of those two airports. Miami would not be what it is without the advent of its airport. All around the country, the same thing.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. The gentleman from Florida [Mr. SMITH] is making the argument that there is no national system. Is the gentleman aware how airports started in the first place? They were built as a national system in large part by the U.S. Army Air Corps in support of delivery of the U.S. mail. It was the U.S. mail in the 1920's that supported the beginnings of aviation in America, and airports were an outgrowth of the need to deliver mail to strategically located areas.

□ 1310

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Mr. Chairman, let me just respond to the gentleman and reclaim my time. That is not a national policy in airports. We did not mean to connect all these cities and to increase the growth a thousandfold in cities by virtue of the original desire to deliver mail from city to city to allow Americans to communicate with one another.

Mr. OBERSTAR. If the gentleman will yield further, when passengers from Duluth, as the gentleman raised earlier, want to go Miami in order to enjoy the Sun in the cold winters of northern Minnesota as respite from 40 below zero, they want to arrive on time.

Mr. SMITH of Florida. And we are glad to have them.

Mr. OBERSTAR. And they want to have runways that can accept those aircraft from northern Minnesota. And if the airport does not expand those runways, then our folks cannot come and spend their dollars in your town.

Mr. SMITH of Florida. Let me reclaim my time. The gentleman is absolutely correct, and those runways can and are being extended now, without the benefit of a PFC in airports all over the country. And if the gentleman goes around this country, like I have, and I am sure he does, he sees airports with construction going on all over the place.

This is just another excuse to tax Americans more because they do not want to at home tell people that they have to pay for the privilege of maintaining their own airport.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Bosco amendment.

Mr. Chairman, first I would like to mention to the previous speaker that the city of Chicago was the second largest city in population in the United States in the year 1900 which I believe is a few years prior to the time the first flight took place at Kitty Hawk, NC. So I think we were a major city before we built any airports.

But more importantly, to move on to this amendment, this Nation has a great need for airport capacity, airport security and for increasing competition. Yes, we have a trust fund. At the present time there is $7 billion in that trust fund.

Because of the work of the chairman of the Aviation Subcommittee, that trust fund is going to be drawn down $1.8 million, $1.9 million, $2.1 million over the course of the next 3 years. Within 5 years it will be down to $1 billion, and everyone agrees that we need a reserve of at least $1 billion in that fund. So we spend $6 billion over the course of the next 5 years.

The need for airport capacity improvement over the course of the next 5 years in this Nation is $50 billion, that is five-zero-billion. How can we possibly meet those airport capacity needs, the security needs if we do not have this passenger facility charge?

For too long this Nation has postponed, postponed, postponed paying for what we need today and tomorrow. We no longer can do that.

I just read an article this morning in an international newspaper talking about the major reasons for the great strides Germany and Japan have made since 1945, and it is because of the great emphasis they have placed upon their infrastructure. Infrastructure, airlines, roads, trains, move people, move goods. If we are going to be truly competitive in this Nation and worldwide in every way we must improve our transportation system, and it has to be done by the people who fly on the planes. That is the only way that it can be done. It is the only way we can achieve our goals. It is the only way we can meet the needs that we have in this country.

Now there has been talk about Chicago and third airports. That is irrelevant. This is a national piece of legislation. Whatever problems GEORGE SANGMEISTER has with this bill or why I particularly favor this bill are irrelevant as far as it goes. This is a national bill. It helps everyone. Yes, it helps the major airports, but it also helps general aviation in this country, it helps the small rural airports in this country.

We cannot continue to put off paying for what we need. Nobody likes to impose taxes. I do not like to do so. The Republicans do not like to do so. The Democrats do not like to do so. The President does not like to do so.

But we have to pay our way. There is no free lunch. If we want to have a good airline system in this country, if we want to increase competition, if we want to get away from where one carrier dominates an airport or two carriers dominate an airport, we have to pass this passenger facility charge. If we pass this passenger facility charge we will have greater competition at each and every airport in this country, and we will drive down the price of the airline ticket.

Yes, right now it will cost $6 to go from Los Angeles to Chicago to New York. But if we have greater competition in each and every one of these airports, we will probably be paying $10, $15, $20 less per trip.

In conclusion, I want to say that this is good public policy. This is the way we should go. Yes, it is supported by the White House. Yes, it is supported by Secretary Skinner. Yes, it is supported by the Democratic House leadership. It is supported by the Republican House leadership. It is supported by the leadership of the Public Works and Transportation Committee. It is supported by the Republican leadership on that committee.

Please, for your good, the good of your constituents, the good of America, the aviation system, defeat the Bosco amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I perceive that we are winding down to the last of this debate, and it has been a good debate, and it has been a good exploration of the issues involved. I want to thank all of those who participated. It has been on issues and not on personalities.

All you lip readers and duck watchers, read my lips. No new revenue, no new airports, no new infrastructure.

We cannot have it both ways. We cannot pause for holy pictures alongside decaying bridges alongside crumbling interstate highways, against clogged runways, and vote against the money to build them. We cannot decry the congestion, we cannot decry the economic loss and vote against the money to do something about it.

We do not build runways with crocodile tears. We do not build runways with wrung hands crying over taxes. We build runways with bond issues supported by the revenues generated by air travelers, plain and simple.

Last year's 170 million hours of delay will not be reduced by speeches against taxes or against passenger facility charges. It will not be reduced by people complaining that this is the wrong policy; let us wait 5 years.

You want to wait 5 years? Here are all of the projects that you are going to be waiting for. These are the airport improvement projects all across America pending with the FAA that cannot be built because there is not enough money to build them.

Whatever you want to call it, tax, fee, charge, delay will only be relieved and reduced by the great engine of America's economy, moved forward by this great aviation sector, a $620 billion a year sector; moved forward when we start building runways, when we start improving the air traffic controllers system, when we start paying air traffic controllers enough to do this job.

We cannot wait 5 years to spend down the trust fund. The chairman of the Transportation Appropriations Subcommittee said it well. We have an agreement. The spend down is underway. We will be down to a $1 billion reserve in the Aviation Trust Fund in 5 years, and that is what we ought to have. We have an agreement from the Department of Transportation and the Secretary of Transportation, from Office of Management and Budget to do that, to spend that surplus in the trust fund down.

□ 1320

And at the same time, we need more money on top of what is coming in from the ticket tax, to do the job of meeting the needs of air travel in this country. You want to wait 5 years until we spend it down and then start figuring out where we are going to get the money to meet the needs of air traffic control, and modernization of the system?

It is going to cost us $25 billion in the next 10 years to modernize the air traffic control system. Think about it.

There is a need for airport development, runway improvement, taxiway improvement, building of gates to have some competition at single-carrier-dominated hubs so they can reintroduce competition into this deregulated environment and break the monopoly of those single airlines that run the hubs. This is the way to do it.

There is $40 billion in needs, and this legislation will begin to put $40 billion into the construction mainstream.

You want to talk about infrastructure? It was on the front pages of all the newspapers and magazines, in the first half decade of the eighties? We did not do anything about it. This bill does something about infrastructure instead of having Members of Congress stand beside the Williamsburg Bridge with tears in their eyes about how bad it is, standing with their bags in their hands at airports where they cannot move, with tears in their eyes. "I can't get to my meetings." They are not doing anything about it.

This does something. It puts money into bond issues, this puts money into airport construction. This says we rebuild America. And it is a partnership.

You put money into the big airports with the passenger facility charge, and they give up some money that goes back into regional and commuter airports and general aviation airports. How do you suppose you get to Chicago?

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. How do you suppose you get to Chicago if you do not start at a Chisholm-Hibbling airport, whose runaway is inadequate, whose facilities are inadequate? This gives us an opportunity to compete. This helps rural America be competitive with urban America. This helps build a national system.

It is targeted, it is targeted to only those projects that improve runway capacity. It is targeted only to those projects that enhance competition. It is targeted only to the real needs that fit into a national airport system. That is what we are talking about.

I want to now turn to a point that has been argued that the Bosco amendment should be supported because the Davis-Bacon prevailing wage law. Let me set the record straight on this. PFC's will result in more contracts for airport construction and most, if not all, of the added construction will be subject to Davis-Bacon.

Davis-Bacon will apply whenever a PFC project receives Federal AIP funds in addition to PFC funds. Based on historical experience, PFC projects should generally be able to obtain Federal funding; in recent years we do not know of any major AIP eligible projects which were undertaken without Federal support.

Theoretically, an airport could forgo Federal funding to get out of Davis-Bacon. But it is extremely unlikely that an airport would do so. Most major airports would be subject to Davis-Bacon type local statutes even if they did not receive Federal funds. An Airport Operators Council International survey shows that 22 of the top 30 airports are subject to local prevailing wage laws.

These airports which are not subject to local prevailing laws are also unlikely to forgo Federal funds. Under existing law, airports are free to avoid Federal requirements, such as Davis-Bacon, by funding a project exclusively with non-Federal funds. However, we do not know of any major airports which have rejected Federal funding in the past. There is no reason to think airports would forgo Federal funding for PFC projects.

Some have suggested that Davis-Bacon can be evaded because an airport could divide a project into a AIP project and PFC project, with the latter not subject to Davis-Bacon.

The intent of our bill is to prevent segmentation of projects to avoid Davis-Bacon.

Section 515(b) of the Airport and Airport Improvement Act of 1982 requires that all contracts in excess of $2,000 for work on projects for airport develoment which are supported by Federal Airport Improvement grants must comply with Davis-Bacon Act wage requirements. I understand that FAA interprets section 515(b) as requiring that when a project is supported by both Federal and local funds all contracts on the project must comply with Davis-Bacon. It is our intention that FAA apply this interpretation to projects which are supported by both PFC funds and AIP funds. On these types of projects, contracts in excess of $2,000 must comply with Davis-Bacon. Moreover, FAA should not permit Davis-Bacon requirements to be avoided by artificial limitations on the scope of a project. For example, if a runway or a new terminal is built with both AIP grants and PFC revenues, FAA should consider the project, for the purposes of Davis-Bacon, to be the entire terminal or the entire runway. FAA should require all contracts for work on the terminal or runway to comply with Davis-Bacon. FAA should not permit an airport sponsor to avoid Davis-Bacon by dividing construction of a runway or terminal into Federal and non-Federal projects.

Finally, I was not a supporter of this idea early on until I studied it and looked at it and gave it a shot, and until we had an agreement with our colleagues on the Appropriations Committee to spend down the surplus in that trust fund and a way to do it responsibly, did I decide it was time to move on passenger facility changes.

Then I said now let us get about meeting the real needs of America. This is a rebuild America program, get America back on track, let us build our aviation system for the future. Let us not stand alongside bridges, clogged runways, congested airports, and cry about infrastructure. Let us do something. Let us pass this bill.

Defeat the pending amendment and get on with the business of America.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman.

Mr. BOSCO. I thank the gentleman for yielding.

Mr. Chairman, as we close this debate, I think everyone agrees that it has been a very good debate. Even as strongly as I feel sitting here, sometimes I started to waver toward the other side. I think other people have had the same feeling.

Let me say that no one respects the chairman of our Aviation Subcommittee more than I do. I think in every respect the gentleman has elevated the Nation's air traffic problems, the Nation's airports problem, the infrastructure difficulties that we face, to a level of national discussion that it needs. We all respect the gentleman for that and thank him.

Mr. OBERSTAR. I thank the gentleman for those kind remarks.

Mr. KYL. Mr. Chairman, I rise in opposition to the Bosco amendment and in support of the passenger facility charge [PFC] provisions of the bill.

I do so, Mr. Chairman, as a means of getting this language to conference where I hope it can be refined to ensure that it is not just another tax on airline passengers—a tax that can be hoarded like the trust fund to mask the size of the deficit.

We know our airports are in desparate need of infrastructure improvements. And, it seems to me that a true user fee is the fairest way of financing those improvements.

The language fo the bill is a step in the right direction. It is written as a user fee, not a tax. Only those travelers who use an airport that elects to charge a PFC will pay the PFC. The PFC is airport specific, project specific. That is precisely what a user fee is supposed to be, and that is why I am voting to preserve the PFC language today.

Moreover, if the airport trust fund is not drawn down, the trigger mechanism of the bill will allow the authority to charge a PFC to expire. In that sense, it will guarantee that PFC revenues supplement, rather than supplant, trust fund revenues for infrastructure improvements. However, I do think the trigger mechanism in the bill can still be tightened up.

Mr. Chairman, I urge my colleagues to oppose the Bosco amendment and allow the conferees the opportunity to refine the language.

Mr. GEPHARDT. Mr. Chairman, I rise in strong opposition to the Bosco amendment which would eliminate a vital component of H.R. 5170, the Aviation Safety and Capacity Expansion Act. This provision, authorizing passenger facility charges [PFC's], will give airports the ability to finance capital expansion projects beyond the Airport Improvement Program grant system which cannot now meet current capacity needs.

Thanks to the leadership of Congressman OBERSTAR, chairman of the Aviation Subcommittee, the provision is crafted with attention to both fairness and administrative efficiency.

It is fair because it will phase out grant money as a condition for accepting PFC money, so that smaller airports which may not be able to levy PFC's, will have more grant money available to them.

It will be administered according to strict project eligibility, tied to standards in existing grant programs and provides oversight authority to the Department of Transportation.

I have been a long-time proponent of the concept of passenger facilities charges because I know our national aviation system needs a shot in the arm when it comes to capital financing. Whether the project in question is in St. Louis, Chicago, or wherever, we must remember that a national air transportation system is good for the entire country. I urge Members to oppose the Bosco amendment and preserve the integrity of the committee bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Bosco].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOSCO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 252, not voting 9, as follows:

[Roll No. 301]

AYES—171

Ackerman	Feighan	Matsui
Applegate	Flippo	Mavroules
AuCoin	Gaydos	McCloskey
Bates	Gejdenson	McCurdy
Beilenson	Gibbons	McDade
Bereuter	Gilman	McDermott
Berman	Glickman	McGrath
Bevill	Gordon	McMillen (MD)
Bonior	Grant	McNulty
Bosco	Guarini	Mfume
Boucher	Hall (OH)	Miller (CA)
Boxer	Harris	Mineta
Brennan	Hatcher	Moody
Browder	Hefley	Morella
Bunning	Herger	Mrazek
Burton	Hertel	Murphy
Bustamante	Hoagland	Nagle
Byron	Hochbrueckner	Neal (MA)
Campbell (CO)	Hoyer	Nielson
Cardin	Jacobs	Oakar
Carper	Jenkins	Olin
Carr	Johnson (SD)	Ortiz
Chapman	Johnston	Owens (NY)
Clarke	Jones (GA)	Pallone
Clay	Jontz	Payne (NJ)
Condit	Kanjorski	Payne (VA)
Conyers	Kaptur	Pease
Cox	Kastenmeier	Pelosi
Crane	Kennelly	Petri
Crockett	Kildee	Price
Dannemeyer	Kleczka	Pursell
Darden	Kolter	Quillen
de la Garza	Lancaster	Rahall
Dellums	Lantos	Rangel
Douglas	Levin (MI)	Ravenel
Downey	Levine (CA)	Richardson
Dwyer	Lewis (GA)	Ridge
Dyson	Lowey (NY)	Rinaldo
Early	Machtley	Ritter
Edwards (CA)	Manton	Rohrabacher
Engel	Martin (IL)	Ros-Lehtinen
Erdreich	Martinez	Roybal
Saiki	Smith (NJ)	Traficant
Sangmeister	Smith (VT)	Traxler
Saxton	Smith, Robert (NH)	Unsoeld
Scheuer		Visclosky
Schroeder	Smith, Robert (OR)	Volkmer
Schuette		Walker
Schulze	Solomon	Washington
Schumer	Spence	Watkins
Sensenbrenner	Staggers	Weiss
Serrano	Stallings	Whitten
Sharp	Stokes	Williams
Shuster	Swift	Wilson
Skaggs	Synar	Wolpe
Slattery	Tallon	Wyden
Slaughter (VA)	Torres	Yatron
Smith (FL)	Towns	

NOES—252

Alexander	Frost	Michel
Anderson	Gallegly	Miller (OH)
Andrews	Gallo	Miller (WA)
Annunzio	Gekas	Moakley
Anthony	Gephardt	Molinari
Archer	Geren	Mollohan
Armey	Gillmor	Montgomery
Aspin	Gingrich	Moorhead
Atkins	Gonzalez	Morrison (WA)
Baker	Goodling	Murtha
Ballenger	Goss	Myers
Barnard	Gradison	Natcher
Bartlett	Grandy	Neal (NC)
Barton	Gray	Nowak
Bateman	Green	Oberstar
Bennett	Gunderson	Obey
Bentley	Hamilton	Owens (UT)
Bilbray	Hammerschmidt	Oxley
Bliley	Hancock	Packard
Boehlert	Hansen	Panetta
Boggs	Hastert	Parker
Borski	Hawkins	Parris
Brooks	Hayes (IL)	Pashayan
Broomfield	Hayes (LA)	Patterson
Brown (CA)	Hefner	Paxon
Brown (CO)	Henry	Penny
Bruce	Hiler	Perkins
Bryant	Holloway	Pickett
Buechner	Hopkins	Pickle
Callahan	Horton	Porter
Campbell (CA)	Houghton	Poshard
Chandler	Hubbard	Ray
Clement	Huckaby	Regula
Clinger	Hughes	Rhodes
Coble	Hunter	Roberts
Coleman (MO)	Hutto	Robinson
Coleman (TX)	Hyde	Roe
Collins	Inhofe	Rogers
Combest	Ireland	Rose
Conte	James	Rostenkowski
Cooper	Johnson (CT)	Roth
Costello	Jones (NC)	Roukema
Coughlin	Kasich	Rowland (CT)
Courter	Kennedy	Rowland (GA)
Coyne	Kolbe	Russo
Craig	Kostmayer	Sabo
Davis	Kyl	Sarpalius
DeFazio	LaFalce	Savage
DeLay	Lagomarsino	Sawyer
Derrick	Laughlin	Schaefer
DeWine	Leach (IA)	Schiff
Dickinson	Lehman (CA)	Schneider
Dicks	Lehman (FL)	Shaw
Dingell	Lent	Shays
Dixon	Lewis (CA)	Shumway
Donnelly	Lewis (FL)	Sikorski
Dorgan (ND)	Lightfoot	Sisisky
Dornan (CA)	Lipinski	Skeen
Dreier	Livingston	Skelton
Duncan	Lloyd	Slaughter (NY)
Durbin	Long	Smith (IA)
Dymally	Lowery (CA)	Smith (NE)
Eckart	Luken, Thomas	Smith (TX)
Edwards (OK)	Lukens, Donald	Smith, Denny (OR)
Emerson	Madigan	
English	Markey	Snowe
Espy	Marlenee	Solarz
Evans	Martin (NY)	Spratt
Fascell	Mazzoli	Stangeland
Fawell	McCandless	Stark
Fazio	McCollum	Stearns
Fields	McCrery	Stenholm
Fish	McEwen	Studds
Foglietta	McHugh	Stump
Frank	McMillan (NC)	Sundquist
Frenzel	Meyers	Tanner
Tauke	Valentine	Wheat
Tauzin	Vander Jagt	Whittaker
Taylor	Vento	Wise
Thomas (CA)	Vucanovich	Wolf
Thomas (GA)	Walgren	Yates
Thomas (WY)	Walsh	Young (AK)
Torricelli	Waxman	Young (FL)
Udall	Weber	
Upton	Weldon	

NOT VOTING—9

Bilirakis	Ford (TN)	Morrison (CT)
Flake	Hall (TX)	Nelson
Ford (MI)	Leath (TX)	Wylie

□ 1346

The Clerk announced the following pairs:

On the vote.

Mr. Ford of Michigan for, with Mr. Morrison of Connecticut, against.

Mr. TORRICELLI, Mrs. LLOYD, and Messrs. PENNY, WAXMAN, and HUBBARD changed their vote from "aye" to "no."

Messrs. CRANE, FLIPPO, MARTINEZ, and PURSELL, Mrs. MORELLA, and Messrs. TRAXLER, SPENCE, VOLKMER, and DOUGLAS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to speak briefly about section 107 of the bill before us, the Aviation Safety and Capacity Expansion Act of 1990.

Section 107 provides for the establishment of the former military airport program. The laudable purpose of this program is to encourage the conversion of former military bases to civilian use in order to help relieve our Nation's airport and airspace capacity problems.

Stewart International Airport, located in my district in New York's Hudson Valley, served for years as a military airfield. It is an outstanding example of an underutilized airport that can benefit from this type of program. The successful advent of commercial service at Stewart clearly demonstrates that its further development is vitally needed. Only this past April, American Airlines inaugurated commercial jet service to both Chicago and Raleigh-Durham from Stewart. This service was such an immediate success that American has added more capacity and introduced nonstop service to JFK and Dallas-Fort Worth, and United Express has entered the market with service to Dulles.

This is a wonderful success story, but the road traveled has been neither easy nor cheap. Substantial funds are needed to convert a military base into a commercial airport, yet Federal funds are not set-aside for this purpose. These types of conversions could significantly alleviate pressure at many of our Nation's congested air-

ports, yet the cost is often prohibitively high.

Passage of section 107 comes just in time to meet Stewart's need for AIP funds to finance its hopefully continued development. It is ready and willing to take part in the former military airport program, and Mr. Chairman, I hope you will join me in urging the Secretary to designate Stewart promptly as one of the first participants.

□ 1350

Mr. SKAGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the distinguished chairman for agreeing to include language in the committee's report on H.R. 5170 regarding a Department of Energy proposal to prohibit use of large areas of airspace near nuclear weapons facilities. This is of particular importance to me because the Rocky Flats plant is in my district in Colorado.

As some of my colleagues may know the Federal Aviation Administration [FAA] is currently reviewing the DOE proposal and will decide later this summer whether to accede to DOE's request and initiate a rulemaking procedure.

Everybody agrees that the Federal Government must be vigilant in protecting our Nation's nuclear weapons facilities. But many, including myself believe that the DOE proposal may be more intrusive and restrictive than necessary to ensure safety and security at those facilities. Beyond that, the proposed airspace restrictions could have a significant impact on aviation capacity, safety, and commercial operations at several airports around the Nation.

To illustrate this point, let me explain what would happen to one airport in my district. Jefferson County Airport currently serves as one of three reliever airports for Stapleton International Airport. If the DOE proposal for Rocky Flats goes forward as drafted, Jeffco Airport could no longer function as a reliever. In addition, they would lose their ILS approaches and a new Doppler VOR—which is currently being flight tested for installation at Jeffco as part of the new Stapletion Airport navigation system. Finally, the plan would virtually eliminate the only available VFR flight corridor lying between the Denver TCA and the Rocky Mountains.

It's ironic that at a time when one branch of the Federal Government is struggling to finance additional aviation capacity, another branch is pursuing a course of action that could significantly diminish air capacity and safety.

The report language addresses this serious problem by instructing the Federal Aviation Administration to consider other technological and airspace management tools that may be capable of providing the same measure of safety and security as airspace restrictions without placing unreasonable and unwarranted restrictions on very valuable airspace. In addition, the report requests that the FAA consider the impacts of the various options on aviation capacity, air safety, and commercial operations, and local economies in the affected regions—including Denver, CO.

Mr. Chairman, I think that this report language will encourage the DOE and the FAA to agree on safe, secure, and a more reasonable proposal to protect our Nation's nuclear weapons facilities. And in the end, that will benefit all of us.

Again, I want to thank you in behalf of Colorado for your assistance on this critical issue.

The CHAIRMAN. If there are no other amendments to the bill, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the chair, Mr. PICKETT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5170) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the airport and airway trust fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes, pursuant to House Resolution 428, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANDERSON. Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 15, not voting 12, as follows:

[Roll No. 302]

YEAS—405

Ackerman	Eckart	Kyl
Alexander	Edwards (CA)	LaFalce
Anderson	Edwards (OK)	Lagomarsino
Andrews	Emerson	Lancaster
Annunzio	Engel	Lantos
Anthony	English	Laughlin
Applegate	Erdreich	Leach (IA)
Archer	Espy	Lehman (CA)
Armey	Evans	Lehman (FL)
Aspin	Fascell	Lent
Atkins	Fawell	Levin (MI)
AuCoin	Fazio	Levine (CA)
Baker	Feighan	Lewis (CA)
Ballenger	Fields	Lewis (FL)
Barnard	Fish	Lewis (GA)
Bartlett	Flippo	Lightfoot
Barton	Foglietta	Lipinski
Bateman	Frank	Livingston
Beilenson	Frenzel	Lloyd
Bennett	Frost	Long
Bentley	Gallegly	Lowery (CA)
Bereuter	Gallo	Lowey (NY)
Berman	Gaydos	Lukens, Donald
Bevill	Gejdenson	Machtley
Bilbray	Gekas	Madigan
Bliley	Gephardt	Manton
Boehlert	Geren	Markey
Boggs	Gibbons	Marlenee
Borski	Gillmor	Martin (NY)
Boucher	Gilman	Matsui
Boxer	Gingrich	Mavroules
Brennan	Glickman	Mazzoli
Brooks	Gonzalez	McCandless
Broomfield	Goodling	McCloskey
Browder	Gordon	McCollum
Brown (CA)	Goss	McCrery
Brown (CO)	Gradison	McCurdy
Bruce	Grandy	McDade
Bryant	Grant	McDermott
Buechner	Gray	McEwen
Bunning	Green	McGrath
Burton	Guarini	McHugh
Bustamante	Gunderson	McMillan (NC)
Byron	Hall (OH)	McMillen (MD)
Callahan	Hamilton	McNulty
Campbell (CA)	Hammerschmidt	Meyers
Campbell (CO)	Hancock	Mfume
Cardin	Hansen	Michel
Carper	Harris	Miller (CA)
Chandler	Hastert	Miller (OH)
Chapman	Hatcher	Miller (WA)
Clarke	Hawkins	Moakley
Clay	Hayes (IL)	Molinari
Clement	Hayes (LA)	Mollohan
Clinger	Hefley	Montgomery
Coble	Hefner	Moody
Coleman (MO)	Henry	Moorhead
Coleman (TX)	Herger	Morella
Collins	Hiler	Morrison (WA)
Combest	Hoagland	Mrazek
Conte	Hochbrueckner	Murphy
Conyers	Holloway	Murtha
Cooper	Hopkins	Myers
Costello	Horton	Nagle
Coughlin	Houghton	Natcher
Courter	Hoyer	Neal (MA)
Cox	Hubbard	Neal (NC)
Coyne	Huckaby	Nielson
Craig	Hughes	Nowak
Darden	Hunter	Oakar
Davis	Hutto	Oberstar
de la Garza	Hyde	Obey
DeFazio	Inhofe	Olin
DeLay	Ireland	Owens (NY)
Dellums	James	Owens (UT)
Derrick	Jenkins	Oxley
DeWine	Johnson (CT)	Packard
Dickinson	Johnson (SD)	Pallone
Dicks	Johnston	Panetta
Dingell	Jones (GA)	Parker
Dixon	Jones (NC)	Parris
Donnelly	Jontz	Pashayan
Dorgan (ND)	Kanjorski	Patterson
Dornan (CA)	Kaptur	Paxon
Douglas	Kasich	Payne (NJ)
Downey	Kastenmeier	Payne (VA)
Dreier	Kennedy	Pease
Duncan	Kennelly	Pelosi
Durbin	Kildee	Penny
Dwyer	Kleczka	Perkins
Dymally	Kolbe	Petri
Dyson	Kolter	Pickett
Early	Kostmayer	Pickle

Porter	Serrano	Tallon
Poshard	Sharp	Tanner
Price	Shaw	Tauke
Pursell	Shays	Tauzin
Quillen	Shumway	Taylor
Rahall	Shuster	Thomas (CA)
Rangel	Sikorski	Thomas (GA)
Ravenel	Sisisky	Thomas (WY)
Ray	Skaggs	Torres
Regula	Skeen	Torricelli
Rhodes	Skelton	Towns
Richardson	Slattery	Traficant
Ridge	Slaughter (NY)	Traxler
Rinaldo	Slaughter (VA)	Udall
Ritter	Smith (FL)	Unsoeld
Roberts	Smith (IA)	Upton
Robinson	Smith (NE)	Valentine
Roe	Smith (NJ)	Vander Jagt
Rogers	Smith (TX)	Vento
Rohrabacher	Smith (VT)	Visclosky
Ros-Lehtinen	Smith, Denny (OR)	Volkmer
Rose	Smith, Robert (NH)	Vucanovich
Rostenkowski	Smith, Robert (OR)	Walgren
Roth	Snowe	Walsh
Roukema	Solarz	Washington
Rowland (CT)	Solomon	Watkins
Rowland (GA)	Spence	Waxman
Roybal	Spratt	Weber
Russo	Staggers	Weiss
Sabo	Stallings	Weldon
Saiki	Stangeland	Wheat
Sarpalius	Stark	Whittaker
Savage	Stearns	Whitten
Sawyer	Stenholm	Williams
Saxton	Stokes	Wilson
Schaefer	Studds	Wise
Scheuer	Stump	Wolf
Schiff	Sundquist	Wolpe
Schneider	Swift	Wyden
Schroeder	Synar	Yates
Schuette	Tallon	Yatron
Schulze	Tanner	Young (AK)
Schumer	Tauke	Young (FL)

NAYS—15

Bates	Crane	Martin (IL)
Bonior	Crockett	Mineta
Bosco	Dannemeyer	Sangmeister
Carr	Hertel	Sensenbrenner
Condit	Jacobs	Walker

NOT VOTING—12

Bilirakis	Hall (TX)	Morrison (CT)
Flake	Leath (TX)	Nelson
Ford (MI)	Luken, Thomas	Ortiz
Ford (TN)	Martinez	Wylie

□ 1411

Mrs. MARTIN of Illinois and Mr. BONIOR changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 300, the vote on the Journal, and rollcall No. 301, imposing a trade embargo on Iraq. Had I been here, I would have cast the following votes: "present," and "aye."

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5170, the bill just passed.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4492

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4492.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1412

SANCTIONS AGAINST IRAQ ACT OF 1990

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5431) to impose sanctions on Iraq.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, on our side the leadership is somewhat confused by this change in the schedule when we had been assured that we were going to be taking up the civil rights bill this afternoon, and now all of a sudden we have had this major change in the schedule. We understand the need for moving the legislation today, but in all honesty, it just came out of the committee. The State Department is reviewing it as we speak, and one portion of the legislation coming out of the Committee on Ways and Means has yet to be attached to the bill we have on the floor. Many Members are not familiar with the content of this bill. There is no reason in our opinion that we cannot take this bill up following the debate on the civil rights bill this evening.

It would be our hope that since the President has already imposed most of the conditions in this bill anyhow as a result of executive order, that we could give the Members an opportunity to review the bill and then bring it up at the close of the debate this evening. That is a more orderly way to proceed. It is something which the membership, I think, would find more accommodating to their ability to review the legislation.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I say to the gentleman two things, that the Democratic leadership is far sighted but yesterday when they spoke of the schedule for today there was concern about this invasion, but it had not yet occurred. Since we met yesterday, the Iraqi Government has brutally come in and crushed the army of Kuwait. There is looting, pillaging, and murder going on on the streets of Kuwait, and I think it is something of an important action for this Congress to as quickly as possible speak out. I think we are too late in many ways.

We worked with the gentleman from Michigan [Mr. BROOMFIELD] and others on the committee and I would just hate to see the gentleman from Pennsylvania stand in the way of the Congress quickly speaking out on this issue.

Mr. WALKER. Further reserving the right to object, first of all, to reply to the gentleman, the President has already taken the action necessary for the United States to move forward most of the actions that are in this bill.

I would say to the gentleman it is also important for us as a country to make certain that we do the right thing in the course of taking actions with regard to Iraq. There are many Members of the House who do not even know this legislation is around let alone that it is available for the House to debate.

All I am suggesting is that we can wait maybe 4 or 5 hours and take it up after the Members have had a chance to review it.

Mr. GEJDENSON. I would say that that would be very little comfort for the women and children and citizens of Kuwait that the House waits another 5 hours to accommodate the gentleman from Pennsylvania while since early this morning we have worked on this legislation. This is not a time to dally. This is a crisis where a country is being destroyed by a tyrant, and we ought to act immediately.

Mr. WALKER. Further reserving the right to object, I certainly understand the gentleman, and he is very emotional about it. But I would say to the gentleman that it is also the time to do the right thing, and Members of Congress do have, I think, the acceptable concern that they have a chance to at least read legislation before we act on it.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Futher reserving the right to object, I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, let me say to the gentleman that I am not sure I understand his concern, although I know why he wants to put it off if he can.

Mr. WALKER. Will the gentleman tell me why that is? He said he knows why I want to put it off.

Mr. FASCELL. He told me he wanted to put it off until later. He just got through telling everybody.

Mr. WALKER. I said because I thought we ought to proceed ahead on the civil rights bill.

Mr. FASCELL. I understand.

Mr. WALKER. Just so we understand.

Mr. FASCELL. I said I understand why the gentleman wants to put it off. I did not say anything awkward. I am just trying to respond to the gentleman's reservation with regard to this bill.

First of all, as far as the bill is concerned, it has been carefully considered by the Committee on Foreign Affairs over quite some period of time and came out unanimously, I might add, and that was yesterday. We did not foresee the invasion. Now, the reason we went back into committee, I will say to the gentleman, is to add to it the action taken by the President under his authority under existing law, and to make the statement that the Congress joins in the condemnation of the invasion and supports the President in the actions that he has taken.

Mr. WALKER. Further reserving the right to object, let me say to the gentleman that there is no one on our side who disagrees with that. We think that can be done.

Mr. FASCELL. Well, then, let us just vote on the bill.

Mr. WALKER. Well, no; that certainly can be done later on this afternoon or later on this evening rather than now. I would say to the gentleman that one of our concerns is the Committee on Ways and Means has not even drafted the amendment that is going to be added to this bill that we are going to be considering.

Mr. FASCELL. Will the gentleman read it to him?

Mr. WALKER. Our understanding from the staff here a minute ago, and I am glad to see it is drafted, and obviously the gentleman has, you know, a piece of paper in his hand. Some of us would probably like to see it before we act on it.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to make a few comments here.

I understand the distinguished chairman of the Committee on Foreign Affairs and the hectic nature of the schedule, but I also understand the rush going on over in Ways and Means today.

The gentleman from Arizona [Mr. UDALL] and myself have a bill that we have had in the Congress for several years, H.R. 1515, that has 184 cosponsors, a wide political spectrum, both sides of the aisle, and I would ask the distinguished chairman of the Committee on Foreign Affairs if, in fact, we do not vote on this bill immediately that he would give some consideration to considering allowing H.R. 1515 to be offered as an amendment to the bill when it does come up on the floor later this evening.

Mr. FASCELL. If the gentleman will yield further, I will say to the gentleman, with all due respect, that I know a lot of people want to jump on this vehicle because they understand the emergency, and while I can respect the gentleman's sincere desire to legislate with regard to most-favored-nation treatment about something or other, this is not the vehicle. I cannot assure the gentleman that we are going to open up this bill for all kinds of amendments on other policy matters.

We view this as simply an emergency for the country to speak in a unified voice behind the President on the actions that we deem absoutely essential for the United States to speak by saying that we condemn the invasion, and we are acting to impose sanctions, period.

□ 1420

Now, I am sorry, but I believe anything else will have to wait until some other time, some proper vehicle. Not until tonight, not until tomorrow, not until next week. We can debate it here. It is not that complicated an issue. One is either for sanctions against Iraq, now, or forget it.

Mr. WALKER. Mr. Speaker, reserving the right to object, I am sorry the gentleman from Florida [Mr. FASCELL] thinks we have to take it up at 2:20 in the afternoon or never. It seems to me it is a valuable resolution that probably ought to be considered by the House yet today. The only question before us now is if it is a valuable enough resolution, that all Members of the House should have an opportunity to review it before we pass it. That is the question here.

I am also disappointed that the gentleman from Florida [Mr. FASCELL] has indicated that it will be brought out by a process that allows no amendments, if in fact this is a resolution that Members have not had a chance to review. There may in fact be some good ideas for amendment.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] has some very valid and some very interesting points. Let me assure the gentleman, and I hope he will remove his objection, that the Committee on Ways and Means unanimously approved the language that I have here. It is not controversial. It merely enhances the power of the President to carry out an effective embargo. He has already placed the embargo on. We are merely giving him the power to more effectively carry out that embargo.

I offer the amendment to the gentleman from Pennsylvania [Mr. WALKER] and the language to read. I assure the gentleman that every Republican on the Committee on Ways and Means, all of whom I believe were present, voted for this. I hope the gentleman will reconsider his objection.

Mr. WALKER. Mr. Speaker, reclaiming my time, maybe we can accommodate both our needs here. If all the gentlemen are telling us is that there is absolutely nothing wrong with this bill and that everything has been done by both committees and that the House can in fact trust the work of all the committees, maybe we can have an immediate passage of the bill by unanimous consent, so that we can go on to civil rights, so we do not have to spend an hour to an hour and a half debating on the House floor.

Mr. Speaker, could we have a unanimous-consent request for the immediate passage of the bill, so that we do not have to spend an extra hour and a half to even consider it?

Mr. FASCELL. Mr. Speaker, I am perfectly happy to do that.

Mr. WALKER. Will the gentleman make that request?

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the consideration and passage of the bill, H.R. 5431, with the amendment of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Florida?

Mr. BARTON of Texas. Mr. Speaker, reserving the right to object, I am not sure whether I will object or not. I understand very clearly the need to move quickly. I understand the sincereity of the chairman of the Committee on Foreign Affairs and the chairman of the subcommittee of the Committee on Ways and Means.

Mr. Speaker, the bill that I am asking to be considered as an amendment has been before the Congress for a number of years. At every stage where we might be given an opportunity to see the light of day on the House floor, there has been some reason it could not be.

I think if we are going to ask for a unanimous consent request, that at least it should be made in order that H.R. 1515 be considered. Now, I know that the gentleman from Florida [Mr. FASCELL] has not had a chance to really study 1515.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, let me say this, and I say it with all due respect. I have not examined the bill of the gentleman from Texas [Mr. BARTON]. There are matters that I have worked on around here for more than 3 years, some of them as much as

20 years. So do not let that deter you, the fact you have not gotten your bill.

Also, let me say in all fairness that our committee has moved legislation through this House to which, if your bill comes, or any part of it, under the jurisdiction of the Committee on Foreign Affairs, that those rules were of such a nature that the gentleman could have been heard.

Mr. Speaker, I am not trying to foreclose the gentleman from Texas [Mr. BARTON] out. I just cannot agree with the gentleman that this bill should now be opened up to other subject matters at this time. The determination of laying down the criteria with respect to most-favored-nation treatment is not one of the matters under consideration here that I want to get into a debate on. It is just not fair.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, I understand the concern of the gentleman from Florida [Mr. FASCELL], and I feel we ought to go through the normal process of the House of Representatives. But if because of the emergency nature of the matter before us we are going to resort to unanimous-consent requests where we consider things without even any debate, I think it should at least be made in order that H.R. 1515 be reviewed as an amendment. Then if you want to vote it down, so be it. I have a feeling we will get 400 votes on it. I may be wrong. I have got copies up at the Committee on Rules, thinking we were going to go to the Committee on Rules for a rule. Since we have come directly to the floor, that is being foreclosed.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, is the bill of the gentleman from Texas [Mr. BARTON] in the nature of criteria for denial of most-favored-nation status for Iraq?

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, that is not the nature of H.R. 1515. The State Department right now maintains a list of nations that sponsor terrorism. Iraq has been on that list. It is my understanding that right now they are not on that list.

Mr. Speaker, H.R. 1515 simply states that any nation that is identified as a terrorist nation under S(6)(j) of the Foreign Imports Act of 1979, not receive most-favored-nation status.

Mr. BERMAN. Mr. Speaker, if the gentleman will yield further on his reservation, I happen to think that is an excellent proposal. But the fact is this proposal is a total embargo on trade with Iraq. The issue of most-favored-nation status for Iraq becomes moot if this bill passes.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I would ask the gentleman from Texas [Mr. BARTON] not to object. I just want to say that I have bills that have sat in my own committee and in other committees and they have not moved. The difference today is that as we sit here and debate, more and more women and children, people in Iraq, are being murdered by the forces of Saddam Hussein. To try to stop this process, to prevent us from moving forward, to try to get one's own legislation moved forward, it is the wrong time. We have got a country that has been decimated by the forces. We have got unanimity in the Committee on Foreign Affairs and in the Committee on Ways and Means.

Mr. Speaker, we ought to step forward, united as a House, condemning this outrage against humanity, and not sit here and debate whether or not my bill or your bill can get to the floor on this vehicle.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I am trying to clarify this as to one point. I am sorry I have to do this. I know the gentleman is very determined about his measure. But just on a quick, cursory examination now with Legis, we do not even find this in our committee. It is in the Committee on Ways and Means or some other committee, the Committee on Energy and Commerce, and two other committees.

I respect what the gentleman from Texas [Mr. BARTON] is doing, but he is just going to foul up this legislation to make his point.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, with all due respect to the distinguished chairman, the gentleman from Florida [Mr. FASCELL], I am not attempting to foul up anybody's legislation. The chairman is absolutely correct, it has not been drafted to be referred to the Committee on Foreign Affairs. It has been drafted to go to the Committee on Ways and Means and the Committee on Energy and Commerce. But this is the train that is at the station getting ready to leave. It is germane.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, if I have the bill of the gentleman from Texas [Mr. BARTON], I did not know I had it. If the gentleman had asked me for a hearing, I would probably have had the hearing for him. But I will right here in front of all the Members and the cameras and everything promise the gentleman from Texas [Mr. BARTON] a hearing as soon as possible on this thing. I will be glad to do it. I have not meant to be obstructionist on the bill of the gentleman from Texas [Mr. BARTON]. It sounds like a pretty good idea. But we do not move without a hearing. I will give the gentlemen a hearing just as soon as we can physically possibly have one.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, I know the distinguished subcommittee chairman, the gentleman from Florida [Mr. GIBBONS] is very busy, but I have talked to the chairman. He has promised me a hearing. We have yet to see the hearing.

With the word of the gentleman from Florida [Mr. GIBBONS] now that I will get a hearing, I withdraw my reservation of objection.

□ 1430

The SPEAKER pro tempore (Mr. BONIOR). The gentleman from Florida [Mr. FASCELL] will restate his unanimous consent request.

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration and passage of the bill (H.R. 5431) to impose sanctions on Iraq, as amended by the Committee on Ways and Means, which amendment I would ask the Clerk to read.

The Clerk read the bill and the amendment, as follows:

H.R. 5431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanctions Against Iraq Act of 1990".

TITLE I—IMPOSITION OF TRADE EMBARGO

SEC. 101. DECLARATIONS OF POLICY REGARDING THE IRAQI INVASION OF KUWAIT.

The Congress—

(1) condemns Iraq's invasion of Kuwait;

(2) supports the actions that have been taken by the President in response to that invasion;

(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

(5) calls for the imposition of multilateral sanctions against Iraq; and

(6) calls on United States allies and other countries to support the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to the Iraqi invasion of Kuwait.

SEC. 102. CONSULTATIONS WITH CONGRESS.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 103. IMPOSITION OF EMBARGO.

(a) REQUIREMENT FOR EMBARGO.—The President shall immediately impose the following sanctions with respect to Iraq, using

the authorities of the International Emergency Economic Power Act:

(1) All property and interests in property of the Government of Iraq, its agencies, instrumentalities, and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, shall be blocked.

(2) The following transactions shall be prohibited:

(A) The import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials.

(B) The export to Iraq of any goods (including agricultural commodities and the products thereof), technology (including technical data or other information controlled for export pursuant to section 5 of the Export Administration Act of 1979), or services from the United States, except publications, other informational materials, and donations of articles intended to relieve human suffering, such as food, clothing, medicine, and medical supplies intended strictly for medical purposes.

(C)(i) Any transaction by a United States person relating to transportation to or from Iraq.

(ii) The provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration.

(iii) The sale in the United States by any person holding authority under the Federal Aviation Act of 1958 of any transportation by air which includes any stop in Iraq.

(b) EXCEPTIONS TO AND LIFTING OF EMBARGO—The requirements of subsection (a) shall not apply to the extent that the President so notifies the Congress in advance.

(c) RELATION TO TITLE II SANCTIONS.—The sanctions required by this title are in addition to, and not in lieu of, the sanctions required by title II of this Act; and the requirements of title II apply without regard to whether the authority of subsection (b) of this section has been exercised with respect to the requirements of subsection (a) of this section.

TITLE II—ADDITIONAL SANCTIONS WITH RESPECT TO IRAQ

SEC. 201. FINDINGS.

The Congress finds that—

(1) the Government of Iraq is a party to the International Convenants on Human Rights and is obligated under the Convenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(2) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as "abysmal";

(3) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech and the press, and the imprisonment, torture, and execution of children;

(4) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority as evidenced by the expulsion of approximately 500,000 Kurds and Assyrians from their mountain villages, the deliberate destruction of villages, and the forcible resettlement of Kurds and Assyrians in specially built towns far from their normal means of livelihood;

(5) in August 1988, the Iraqi armed forces launched an offensive against Kurdish rebel forces using chemical weapons against guerrillas and innocent civilians, in which up to 5,000 people were killed;

(6) the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights;

(7) in violation of international law, Iraq repeatedly used chemical weapons against Iran, which also used chemical weapons against Iraq;

(8) Iraq continues to expand its chemical weapons capability, and in a speech given on April 2, 1990, President Saddam Hussein threatened to use chemical weapons against other countries, if attacked;

(9) Iraq has developed ballistic missile systems with a range of greater than 300 kilometers;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons;

(11) Iraq attempted to smuggle from the United States components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party;

(12) Iraq is increasing its support for Palestinian groups that have conducted terrorist acts; and

(13) an enhanced Iraqi capacity to support terrorist operations will add to further instability in the Middle East.

SEC. 202. IMPOSITION OF SANCTIONS AGAINST IRAQ.

(a) FMS SALES.—The United States Government may not sell to Iraq any item on the United States Munitions List.

(b) COMMERCIAL ARMS SALES.—Licenses may not be issued for the export to Iraq of any items on the United States Munitions List.

(c) CONTROLS ON CERTAIN EXPORTS.—

(1) PRESUMPTIONS OF DENIAL OF LICENSES FOR CERTAIN EXPORTS.—There shall be a presumption of denial of any license application under the Export Administration Act of 1979—

(A) for the export to Iraq of any goods or technology that could enhance the ability of Iraq to support acts of international terrorism,

(B) for the export of any goods or technology to an end user in Iraq that is engaged in missile or chemical or biological weapons proliferation activities, or

(C) for any export where there is a risk of diversion to missile or chemical or biological weapons proliferation activities in Iraq.

(2) DENIAL OF LICENSES FOR EXPORTS RELEVANT TO CHEMICAL OR BIOLOGICAL WEAPONS PRODUCTION.—Licenses may not be issued under the Export Administration Act of 1979 for the export to Iraq of any chemical or biological agent that the President determines may be used primarily in the production of chemical or biological weapons or may be otherwise devoted to chemical or biological warfare purposes.

(3) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR CERTAIN ITEMS.—

(A) LIST OF ADDITIONAL ITEMS SUBJECT TO LICENSING REQUIREMENTS.—In accordance with section 6(1) of the Export Administration Act of 1979, there shall be established—

(i) a list of goods and technology whose export to Iraq is to be controlled pursuant to this paragraph in order to enhance United States foreign policy of nonproliferation of chemical and biological weapons or missile technology; and

(ii) a list of goods and technology whose export to Iraq could enhance the ability of Iraq to support acts of international terrorism.

(B) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR LISTED ITEMS.—After the end of the 60-day period referred to in subparagraph (C), an individual validated license shall be required under section 6 of the Export Administration Act of 1979 for the export to Iraq of goods or technology on either list established pursuant to subparagraph (A).

(C) EFFECTIVE DATE OF LISTS: PUBLICATION.—The initial lists pursuant to subparagraph (A) shall be established and published in the Federal Register not later than 60 days after the date of enactment of this Act.

(4) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR CERTAIN END USES.—

(A) END USES SUBJECT TO REQUIREMENTS.—An individual validated license shall be required under section 6 of the Export Administration Act of 1979 for the export of any goods or technology to Iraq—

(i) if the exporter knows, or has reason to know, that the goods or technology would be used in the design, testing, manufacture, or use of missiles or chemical or biological weapons; or

(ii) if the exporter knows, or has been informed by the Department of Commerce, that the goods or technology would be used to support acts of international terrorism.

(B) EFFECTIVE DATE.—Subparagraph (a) applies with respect to exports occurring more than 30 days after the date of enactment of this Act.

(5) RELATION TO OTHER EXPORT LICENSE REQUIREMENTS.—The requirements for a validated license for exports to Iraq that are imposed by paragraphs (3) and (4) are in addition to other requirements for validated licenses for exports to Iraq that are imposed under the Export Administration Act of 1979.

(d) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

(1) NRC LICENSES.—The Nuclear Regulatory Commission may not issue any license or other authorization under the Atomic Energy Act of 1954 for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954, or any other material or technology requiring such a license or authorization.

(2) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 may not be used to distribute any special nuclear material, source material, or by-product material to Iraq.

(3) DOE AUTHORIZATIONS.—The Secretary of Energy may not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954 for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(4) EXPORT LICENSES.—The Secretary of Commerce may not issue any license under the Export Administration Act of 1979 for

the export directly or indirectly to Iraq of any goods or technology—

(A) that are intended for a nuclear related end use or end user;

(B) that have been identified on the Commodity Control List pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 as items that could, if used for purposes other than those for which the export is intended, be of significance for nuclear explosive purposes; or

(C) that are otherwise subject to the procedures established pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(e) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act.

(f) DENIAL OF ACCESS TO THE EXPORT-IMPORT BANK.—Credits or credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(g) DENIAL OF OTHER ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance) and the Arms Export Control Act shall be denied to Iraq.

SEC. 203. CONTRACT SANCTITY.

For purposes of the export controls imposed pursuant to subsection (c) and (d)(4) of section 202, the date described in section 6(m)(1) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

SEC. 204. EXPIRATION.

Section 202 shall cease to apply at the end of the 4-year period beginning on the date of enactment of this Act.

SEC. 205. WAIVER.

The President may waive the requirements of any subsection of section 202 if the President certifies to the Congress—

(1) that the Government of Iraq—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is no longer acquiring chemical, biological, and nuclear weapons and delivery systems and components for such weapons, and has forsworn the first use of such weapons;

(C) has recommitted itself to abide by the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisoning or Other Gases, and of Bacteriological Methods of Warfare; and

(D) does not provide support for international terrorism; and

(2) that he has determined that it is essential to the national interests of the United States to waive the requirements of that subsection;

except that any such waiver shall not take effect until at least 60 days after the President's certification is submitted to the Congress. Any such certification shall include the justification for the President's determinaton under each subparagraph of paragraph (1) and under paragraph (2).

SEC. 206. MULTILATERAL COOPERATION.

The Congress calls on the President to seek multilateral cooperation—

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq, in particular the areas in northern Iraq traditionally inhabited by Kurds.

Amendment: In section 103 of the bill, redesignate subsections (b) and (c) as subsections (c) and (d), and after subsection (a) insert the following new subsection:

(b) ADDITIONAL IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the sanctions listed under subsection (a), and is consistent with the national interest, the President may prohibit, for such period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited the importation of products of Iraq into its customs territory; or

(2) given assurances satisfactory to the President that such an import sanction will be promptly implemented.

In subsection (d), as so redesignated, strike "(b)" and insert "(c)".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I want to indicate my strong support for the unanimous consent request offered by the chairman of our Foreign Affairs Committee with the addition of the amendment sponsored by the gentleman from Florida [Mr. GIBBONS] that has been approved by the Committee on Ways and Means, and I ask for an immediate vote.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection. The amendment was considered as agreed to. The bill, as amended, was considered to be engrossed and read a third time, and was considered to have been passed, and a motion to reconsider was laid on the table.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The Chair would suggest to the gentleman from Michigan that the bill was passed by a unanimous consent request.

Mr. FASCELL. Mr. Speaker, let the Members have the yeas and nays. I have no objection to the yeas and nays.

Mr. SHAW. Mr. Speaker, I rise today in support of the bill offered by my colleague from Florida, Mr. FASCELL, and amended by my other colleague from Florida and fellow Ways and Means Committee member, Mr. GIBBONS. This bill calls for multilateral sanctions against Iraq by urging our allies to follow America's lead in imposing sanctions of their own against Iraq.

Early this morning, Iraq executed a brutal act of war. On the orders of Saddam Hussein, Iraqi troops stormed into neighboring Kuwait, and occupied the entire country. One can only guess the reasons why Saddam Hussein would overthrow the government of one of his Middle East neighbors, a country that supported his nation in its war against Iran. I am sure, though, that one of the main reasons revolves around Iraq's desire to flex its strength as the dominant military force in OPEC and the Middle East.

This action by Iraq represents a serious threat to our national security. By attacking Kuwait and seizing control of its oil production facilities, Iraq has jeopardized one of America's most reliable sources of foreign oil. The United States receives roughly 5 percent of its oil from Iraq and Kuwait.

This action also represents a potential military threat to U.S. military personnel in the Persian Gulf. Recently Kuwait purchased Stinger missiles from us. These weapons in all probability have now fallen into the hands of a madman. With Saddam Hussein now in possession of Stinger missiles, U.S. planes in that region of the world are now placed in great danger.

Our allies have been placed in danger as well. Saudi Arabia, another major exporter of oil to the United States, now has a hostile army on its border.

For all these reasons, I strongly support this bill today. Not only does it call for United States sanctions against Iraq, but it also asks the President to ask our allies to place sanctions against Iraq. So far, many of our allies have joined us in our condemnation of Iraq. The Soviet Union has announced its intention to stop all exports of arms to Hussein. The U.N. Security Council has just voted unanimously to condemn Iraq. British Prime Minister Margaret Thatcher has announced that her country would join the embargo as well. I expect more of our allies to join us shortly.

Mr. Speaker, the worldwide condemnation of this aggressive act is encouraging. With this bill today, However, the United States is going farther than mere condemnation of a cowardly act by a brutal regime. America should be taking the lead in punishing this act, and this bill will help accomplish this objective. This bill is a good bill, and I strongly urge its adoption.

Mr. HOUGHTON. Mr. Speaker, I rise in strong support of H.R. 5431. It's important to speak out—one voice—the President and Congress—in condemnation of Iraq's invasion of Kuwait. This issue is critical. It should be passed immediately.

Iraq's invasion of Kuwait by force is unconscionable—period. It is the most serious military situation I've seen since becoming a Member of Congress—Panama not withstanding.

Yes, I worry about Nicaragua, Azerbaidzhan, the economic sphere of a united Germany—but this situation is dynamite. The implications of a mad man invading, destroying, and controlling oil distribution is frightening. Saddam Hussein is Hitler reincarnated. He tests the limits with his bullying tactics. Iraq develops chemical weapons, ballistic missiles and long-range superweapon artillery devices. Iraq has one of the worst human rights records, continues to harbor terrorists and is the world's largest arms purchaser.

Now, American lives are on the line. So maybe is our economic future. Shipping lanes are threatened. United States flagged Kuwaiti oil tankers are at risk. We don't know where

or when Hussein's offensive will stop. Oil price increases and higher inflation are all a reality.

The message H.R. 5431 sends to Iraq will not stop the war but it comes through loud and clear. We will not tolerate such action, and we will support the President. Let me spell it out. H.R. 5431 legislates a total import—export ban on Iraq, including oil imports and dual-use items. The legislation supports the President's actions regarding the total embargo on the importation of Iraqi goods and services, freezes Iraq's assets in the United States curtails all transportation to and from Iraq and bans the export of any goods, techology, and technical data to Iraq.

This is a bad man. He casts because of oil a long shadow. He is a menace to his own citizens, to Israel, to the Middle East, to United States interests, and to world peace. I urge my colleagues to support this legislation.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5431, Sanctions against Iraq Act of 1990.

This legislation was ordered reported this morning by the Committee on Foreign Affairs, with strong bipartisan support. I would like to express my appreciation to the ranking minority member, of Foreign Affairs, Mr. BROOMFIELD, and to my colleague Mr. BERMAN for their cooperation in considering this important piece of legislation. I would like also to express my appreciation to the distinguished chairmen of the Ways and Means Committee, the Banking, Finance and Urban Affairs Committee, the Agriculture Committee, and the Public Works and Transportation Committee, Mr. ROSTENKOWSKI, Mr. GONZALEZ, Mr. DE LA GARZA, and Mr. ANDERSON for their cooperation in considering this important legislation which is before the House today.

Mr. Speaker, the outrageous behavior in Iraq's invasion of Kuwait must be condemned in the strongest terms and this legislation not only condemns Iraq but also imposes a total and complete import and export ban on Iraq.

Specially, H.R. 5431: Condemns Iraq's invasion of Kuwait; supports the actions taken by the President in response to that invasion; calls for immediate and unconditional withdrawal of Iraqi forces from Kuwait; supports the efforts of the U.N. Security Council to end this violation of international law and threat to international peace; calls for the imposition of multilateral sanctions against Iraq; calls on United States allies to support the efforts of the Security Council and to take other appropriate actions to bring about an end to Iraqi invasion of Kuwait; calls on the President to keep the Congress fully informed; reaffirms the President's actions and legislates the imposition of a total export and import embargo on Iraq; and requires advance congressional notification of any exceptions to or lifting of the embargo on Iraq.

Iraq's invasion of Kuwait is a major setback for United States policy in the Persian Gulf. The United States must move quickly to assure other friendly states in the region of our willingness to cooperate and contain any further threats by Iraq. I would hope that the United States, in cooperation with our allies, the Soviet Union and other members of the international community will join in the Security Council's efforts to successful dissuade Iraq from further expansionist steps and to secure Iraq's immediate and unconditional withdrawal from Kuwait. This crisis must not be met only by the United States. Now is the time for firm resolve by all the civilized nations of the world to join in not only condemning, but curbing as well, the maniacal leader of Iraq, Saddam Hussein.

Mr. Speaker, in addition to a total embargo in response to the reprehensible Iraqi invasion of Kuwait, this legislation enacts sanctions against Iraq that would continue to be imposed even if the current crisis is resolved. Title II of H.R. 5431 imposes sanctions on Iraq because of their gross violations of human rights, support for international terrorism, and their aggressive weapons program, including chemical, biological, and nuclear weapons.

Mr. Speaker, the Government of Iraq is one of the most brutal and repressive regimes in the world. The regime of Saddam Hussein engages in summary executions, mass political killings, torture, disappearances, and the arbitrary arrest and imprisonment of thousands of political opponents. With the exception of freedom of worship, all internationally recognized political and civil rights, including freedom of assembly, association, movement, speech and the press, are denied. Any expression of dissent is ruthlessly suppressed. In a particularly gruesome and reprehensible practice, the security forces of the government have, for several years now, deliberately tortured, killed and abused children as young as five months of age.

Since 1987, Saddam Hussein has intensified Iraq's campaign to wipe out its beleaguered Kurdish minority. Over half a million Kurds and Assyrians have seen their mountain villages deliberately destroyed and have been forcibly relocated to inhospitable desert areas of Iraq. And, as well, all are painfully aware, in 1988, the Iraqi Government employed chemical weapons against the Kurds there, killing thousands of innocent men, women, and children through the indiscriminate use of poison gas.

Yet the bully Saddam Hussein has not restricted his aggression and brutality to within his own borders. In recent weeks, his regime has engaged in the virtual blackmail of its Arab neighbor Kuwait. He used chemical weapons against Israel, and continues to develop new and more ghastly forms of poison. His government supports and provides safe refuge to international terrorists including the infamous Abu Nidal organization which recently reopened its Baghdad office. He also provided support and safehaven to the notorious Abu Abbas who masterminded the recent Palestine Liberation front attack against Israel.

Mr. Speaker, this legislation is a reasonable response to the actions of a fanatic. I urge my colleagues to adopt it unanimously.

Mr. ANDERSON. Mr. Speaker, this morning August the second, Iraq invaded Kuwait, an ally of the United States in the Persian Gulf region and a moderate Arab State in the otherwise volatile Middle East. After Kuwait financially propped up Iraq in its war with Iran with billions in loans and credits, it now seems ironic, though predictable, that Iraq has turned against its former friend and neighbor in its search for Middle Eastern hegemony.

Possessing a modern army of over 1 million battle-veteran men and 6,000 tanks, the Iraqis easily overran the Kuwaiti Army of just 20,000. Iraq's President and strongman Saddam Hussein has decided to play the role of bully in the Persian Gulf with a display of naked aggression against his tiny neighbor. This is an obvious attempt to assert Iraqi leadership in the region and cow the rest of the oil-producing Gulf States into raising the price of a barrel of oil. The real lesson we should learn from this action is that Hussein will use any tactic, including force, to get his way. Already he has used chemical weapons against Iran, even against his own people. He has embarked on a frenetic program to develop a nuclear weapon and has built long-range missiles enabling him to strike, with chemical weapons, any point in the Middle East, and threatened to do so should anyone challenge him. His regime has been an affront to world standards of human rights, with flagrant examples of executions of any political opposition, even the execution of international press reporters. Yet we still continue to buy oil from this man. Where Saddam Hussein will strike next is anybody's guess. Will the next victim be Saudi Arabia, the largest producer of America's imported oil?

While I do not see the United States responding militarily to this situation, the ramifications of this invasion are tremendous. We currently import approximately 50 percent of our oil from abroad, including 500,000 to 600,000 barrels a day from Iraq. Meanwhile, domestic production has fallen to just over 7 million barrels a day, the lowest amount since 1961. Domestically producing the same amount of oil we did 29 years ago, with an economy more than 10 times as large, puts this entire Nation at risk and holds us hostage to the egotistical ambitions of the power-hungry Hussein. Yet, certain interests of our society would continue to make it nearly impossible to take advantage of untapped domestic sources of oil. I have always been in favor of alternative energy sources, but the fact is we continue to rely on oil for our primary energy source. Even if we should decide to invest heavily in other sources of energy, it will be years before we can move away from our reliance on oil. The facts dictate that we must take advantage of our own domestic reserves instead of exposing ourselves to the mad ambitions of men like Saddam Hussein. If we do not regain energy independence, we stand at the mercy of the likes of Hussein. I do not think this country can afford that.

This action also makes me concerned about the direction of U.S. defense policy. I think this invasion should remind us that, despite the changes in Eastern Europe and the Soviet Union, the world is still a dangerous place. While we start the process of reducing our overseas base structure, we must retain and strengthen those elements of our armed forces which allow us to protect our far-flung national security interests. But at the same time our energy dependency grows, we are taking steps to reduce our ability to respond to outside threats. I would specifically point to the need to retain our aircraft carriers and build the B-2 Stealth bomber. My colleague, Senator SAM NUNN of Georgia, chairman of the Senate Armed Forces Committee, remarked that, "we do not have any aircraft

within striking distance [of Iraq] unless we fly land-based air, long-range bombers into that region." In a situation like this where it is obvious that it is not prudent to insert ground troops, I believe the B–2, as well as carriers, give this country the striking power we need to protect our national interests. The Iraqi invasion of Kuwait demonstrates that we will be making a serious mistake if we choose not to build the B–2 or if we cut our carrier fleet. And while I would support Senator NUNN's contention that "we would not want to get into a ground war in that area," I would also argue that one of the reasons for that reluctance is our inability to field a capable force in so distant a region. We must have forces capable of responding not only to situations in small countries like Panama, but to situations where the economic lifeblood of our economy is threatened, no matter the opponent. I have consistently pressed for the modernization and expansion of our airlift capability, namely the C–17, and the creation of an adequate fast sealift capability. When a country like Iraq knows we have the capability to respond militarily with overwhelming force, that country will be reluctant to challenge United States interests. Obviously, we can afford to cut much of our forces dedicated to defending against a Soviet invasion of Western Europe. But we simply cannot afford to decimate our forces to the extent we become military impotent and unable to respond to threats to our vital interests. I think that this Iraqi invasion should give us all pause, and give us reason to reconsider the extent of cuts we are going to make in our Armed Forces.

Mr. BROOMFIELD. Mr. Speaker, I rise in strong support of this legislation which will send a signal to Saddam Hussein that the United States will not tolerate international thuggery.

This bill calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait, and most importantly puts into legislation a total U.S. embargo on both Iraqi exports and imports.

That embargo includes oil. I am told that Iraq exports roughly a half a million barrels a day to the United States. At twenty dollars a barrel, that's $10 million a day, or $3.5 billion a year.

When you consider that Iraq's entire economy produces only $34 billion a year, that's a significant economic countermeasure.

This bill also calls on the international community to join the United States in its complete embargo. More than a third of Iraq's production of goods and services is exported. A worldwide embargo would put real teeth into the international community's condemnation of Iraq.

The bill calls on the President "to immediately impose the following sanctions with respect to Iraq." I am happy to inform my colleagues that with the Executive orders issued today the President has already taken all the actions called for in this bill.

I am sure the President will be delighted that the Congress has given his actions such a strong measure of support by passing this legislation.

Yesterday's invasion by Iraq of Kuwait strikes at the heart of one of the most strategically important areas in the world.

The Persian Gulf holds much of the oil that powers the world's factories, drives its cars, and heats it homes. It is an invasion that cannot go unanswered.

Saddam Hussein is fast becoming the world's No. 1 war criminal in an area where the chances for all out warfare are the greatest. This is not just a regional disagreement; it is a major threat to world peace.

It seems like yesterday that Iran and Iraq agreed to end one of the bloodiest wars of the century. But it appears that Saddam Hussein's bloodlust has not been satisfied.

This invasion of tiny Kuwait comes shortly after Hussein had threatened to respond to any Israeli attack on Iraqi territory with a massive chemical air strike on Israel.

It seems like every day Hussein ups the ante. That's why President Bush's swift and forceful response to this invasion is so important.

It tells Hussein and other countries in the area that the United States and the other industrial democracies will not give tin horn Napoleans a free hand in the Persian Gulf.

The President's decision to freeze Iraqi assets in the United States tells Hussein that he cannot expect to seize the assets of others without having his own assets seized in return.

The President's decision to embargo all oil shipments is a message that Hussein cannot expect to snuff out the freedom of other nations and still expect to participate in the system of free trade.

I would hope that other free nations will unite with the President on this embargo and present a unified front on this important issue.

A unified front is also important in this country. It is important that America speak with one voice. That's why we must overwhelmingly pass this legislation.

The Iraqi Government of Saddam Hussein is an affront to the community of nations. Hussein has expelled a half a million Kurds and Assyrians from their villages and has killed as many as 5,000 Kurds with chemical weapons.

He has developed ballistic missile systems and is trying to import triggering devices for nuclear warheads.

He continues to sponsor terrorism throughout the Middle East and elsewhere.

I say this only to allay the concerns of any Member who may think this bill may be too severe. Saddam Hussein is a rogue elephant. His brand of international murder and mayhem must be stopped.

Mr. Speaker, I ask that the President's Executive orders be printed in the RECORD, and I urge my colleagues to give their unanimous support to this important bill.

BLOCKING KUWAIT GOVERNMENT PROPERTY

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and 3 U.S.C. 301.

I, George Bush, President of the United States, find that the situation caused by the invasion of Kuwait by Iraq constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and have declared a national emergency to deal with that threat.

I hereby order blocked all property and interests in property of the Government of Kuwait or any entity purporting to be the Government of Kuwait, its agencies, instrumentalities and controlled entities and the Central Bank of Kuwait that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, including their overseas branches.

For purposes of this Order, the term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any person in the United States.

The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act to carry out the provisions of this Order.

This Order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

THE WHITE HOUSE, *August 2, 1990.*

BLOCKING IRAQI GOVERNMENT PROPERTY AND PROHIBITING TRANSACTIONS WITH IRAQ

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code.

I, George Bush, President of the United States of America, find that the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. All property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

Section 2. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials;

(b) The export to Iraq of any goods, technology (including technical data or other information controlled for export pursuant to Section 5 of the Export Administration Act (50 U.S.C. App. 2404)) or services from the United States, except publications and other informational materials, and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Iraq; the provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C.

1514), of any transportation by air which includes any stop in Iraq.

Section 3. This Order is effective immediately.

Section 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Iraq, its instrumentalities and controlled entities, or to any Iraqi national or entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

This Order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

THE WHITE HOUSE, *August 2, 1990.*

Mr. ROSTENKOWSKI. Mr. Speaker, the Committee on Ways and Means met earlier today to consider the bill as introduced and, after lengthy discussion, reported the bill favorably with an amendment.

The amendment as adopted by the Committee on Ways and Means gives the President authority to impose an import ban against any third country that does not impose import sanctions like those imposed by the United States. The committee believes that this amendment is an important addition to the powers of the President to induce our trading partners to join us in imposing trade sanctions against Iraq. All too often, the United States stands alone in taking such action against countries whose behavior violates every norm of civilized behavior. This amendment would give the President a strong bargaining chip to bring about multilateral import sanctions against Iraq. It sends the strongest possible message to Iraq that unless and until it pulls its forces out of Kuwait and commits to live peacefully within its borders, it faces the prospect of bankruptcy due to its inability to sell oil and other goods on the international market.

Mr. Speaker, the shocking invasion of Kuwait by Iraq—an unprovoked act of blatant aggression—represents the worst in a series of aggressive and abusive actions by the Government of Iraq toward neighboring countries and its own citizens. This action requires that the United States and other countries respond in sure and swift fashion. H.R. 5431 reaffirms the actions taken by the President today and is the very least which this body can do in order to send the message that the United States abhors the aggressive behavior of the Government of Iraq.

Mr. Speaker, I urge my colleagues to support the bill and the Ways and Means Committee amendment.

Mr. SOLOMON. Mr. Speaker, I am pleased that the Foreign Affairs Committee has reported this bill and that the leadership of this House has brought it to the floor today.

I want to express my very strong support for it. I believe it will serve as a warning to Saddam Hussein that his brutal, cynical, and outrageous invasion of the little country of Kuwait will not go without punishment from the United States and from the international community.

Mr. Speaker, I imagine that Saddam Hussein likes to think of himself as a modern-day King of Babylon. Indeed, perhaps he thinks that, as a King of Babylon, he has the right to use his army and weapons to inflict as much pain as he wishes on his Middle Eastern neighbors.

The fact is that his dream of glory and his increasing acts of aggression are nothing more than a sad replay of the kind of bullying carried out by Benito Mussolini and Adolf Hitler in the 1930's—again in the name of past glories like the Roman Empire and the Reich.

If we learned anything from the tragic days that led to the Second World War, we learned this—appeasement or apathy do nothing more than entice a dictator to further acts of aggression.

If the international community fails to respond firmly and decisively to this latest outrage by Mr. Hussein, we all know that it will not stop with Kuwait.

After all, Saddam Hussein has not been labeled the world's most dangerous man for no reason. He is a dictator—accustomed to using chemical weapons against people in his own country—accustomed to hanging foreign journalists he accuses of espionage—accustomed to stealing dangerous military technology abroad when he cannot obtain it by legal means—accustomed to invading his neighbors and threatening others with his large army, and more important, with his new missiles armed with chemical weapons.

Again, I welcome this bill. I think it will serve as a sign that this country, for one, will respond firmly to this brutal aggression.

In closing, however, I just want to again point out to my colleagues one important thing.

The United States has vital interests around the world. In this instance, two specific things.

First, a heavy dependence on energy supplies from Kuwait and its neighbors.

Second, the need to support moderate Arab nations of the region, like Kuwait, in order to prevent the spread of dictators like Hussein, whose dreams of past empires would inevitably submerge that region in a war that could have terrible consequences far beyond the area.

Mr. Speaker, I urge my colleagues to keep this vital fact in mind as we consider what resources we will contribute to our armed forces in the coming years.

Who can say when we and our allies abroad may have to join to defend those vital interests in the future?

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for this critically important legislation imposing economic sanctions against Iraq—H.R. 4585—and I would like to commend the gentleman from California, Mr. BERMAN, for his outstanding work on this important, timely measure. Permit me to commend the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, our distinguished ranking Republican member of our committee, Mr. BROOMFIELD, as well as the chairman and ranking Republican on the Subcommittee on Human Rights and International Organizations, Messrs. YATRON and BEREUTER, for their outstanding work on this measure.

Mr. Speaker, it's about time that we send a clear, unequivocal message to the Iraqis that Iraq cannot keep bullying other states in the Middle East. Iraq already possesses extraordinary military capability in both the conventional, and strategic realms. Not too long ago, Iraq used chemical weapons on its Kurdish population, in one of the most egregious human rights violations in recent history. Iraqi President Saddam Hussein has threatened to use these same weapons of mass destruction against Israel.

Currently, Iraq has initiated military action against Kuwait, by massing tens of thousands of troops, as well as hundreds of pieces of armor and artillery near the Kuwaiti border. Last night, as well all know, these troops crossed over the Kuwaiti border and initiated hostile military action against the emirate of Kuwaiti.

It is a known fact that Iraq continues to harbor such notorious international terrorist as Abu Al-Abbas, the despicable murderer who was responsible for both the *Achille-Lauro* hijacking, which resulted in the murder of Leon Klinghoffer, as well as the recent Tel Aviv beach attack which was aborted by Israeli defense forces.

There is a great deal of credence to the oft stated observation that unilateral sanctions are not effective. I call upon our European allies to join the United States in expressing indignation to the Iraqis over their outrageous politico-military escapades.

This morning, President Bush announced an Executive order which serves to freeze Iraqi assets in the United States, and prohibits the United States from engaging in any business transactions in Iraq. Now is the time for both the executive and legislative branches of government to come together in demonstrating a unified front on this critical issue. We must give our President maximum flexibility to secure United States interests during this tumultuous period.

Mr. Speaker, our Committee on Foreign Affairs has worked extensively on this legislation. This measure condemns the invasion of Kuwait; supports actions undertaken by President Bush in response to the Iraqi invasion; it calls for immediate, unconditional withdrawal of Iraqi forces from Kuwait, as well as a multitude of other actions which are designed to express our unequivocal disapproval of Saddam Hussein's latest outrageous act. This legislation will also reaffirm the President's imposition of a total export and import embargo on Iraq.

Mr. Speaker, permit me to also express my outrage and indignation at the Iraqi Ambassador's assertion that Iraq has taken this action in support of a coup attempt from within the Kuwaiti Government. That statement, which is without substantiation, is nothing more than gratuitous and self-serving. It is clear to all of us who closely monitor events in the Persian Gulf that this is a banal attempt to justify the

despicable acts of aggression that Iraq has proven itself capable of once again.

In conclusion Mr. Speaker, the 1989 State Department Human Rights Report calls Iraq's record on human rights abysmal. The Government of Iraq participates in such gross human rights violations as summary execution, torture, imprisonment, as well as the denial of nearly all basic civil and political rights. It's about time a little glasnost travels to one of the most repressive regimes on the face of the earth. Accordingly, I am pleased to express my unequivocal support for this measure and urge my colleagues to fully approve this measure.

Mr. FEIGHAN. Mr. Speaker, I want to commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, for his leadership with other committee chairmen in bringing this sanctions bill to the floor.

The committee has in essence codified the administration's call for international embargo against Iraq. But this must be the first step in the United States taking the lead in fashioning a worldwide response to this brutal and illegal invasion.

This invasion marks the first time in modern history that one Arab country has invaded another Arab country. But memory serves to remind us that Saddam Hussein's Iraq has already been responsible for some of the most heinous acts in modern history.

This is the same Iraqi regime that used poison gas, not only against its Iranian foes, but against its own Kurdish citizens.

This is the same Iraqi regime that attempted to smuggle high-powered electronic switches that can be used in production of nuclear weapons.

This is the same Iraqi regime that indicated that it was prepared to scorch half of Israel if provoked.

And last night, Iraq crashed into Kuwait. It is clear that this conflict is more than just a family quarrel. And it's more than an effort by Iraq to set off another oil shock. It is a plain and simple power grab, designed to make Iraq the preeminent power in the region—politically, economically, and militarily.

Our efforts today should give force to the unanimous vote of the U.N. Security Council resolution condemning the Iraqi invasion and calling for its immediate withdrawal from Kuwaiti territory. It should also give support to the potential mediating efforts of the Arab League Foreign Ministers, who are now meeting in Cario.

But for these efforts to bear any fruit, the word must go out to Baghdad—not just from Washington—but from London, Paris, Bonn, and Cairo—that the international community will not tolerate this kind of behavior. It is illegal, it is murderous, and it should be punished.

Mr. GEJDENSON. Mr. Speaker, I commend the administration for the trade embargo imposed on Iraq. It is regrettable that it took so long for the administration to act. The brutal extermination of 5,000 innocent Kurds, the threatened use of chemical weapons against its neighbors, and the methodical acquisition of the equipment and technology needed for ballistic missiles and nuclear weapons have all taken place over a period of time. Yet, following a tradition of timidity and appeasement first established in response to the horrors in China a year ago, the administration chose to drive straight down the road to appeasement. The President's policy to Iraq was as successful as his policy toward China.

Whether the butcher resides in Baghdad or Beijing, the administration somehow feels that the power of reason and quiet diplomacy will prevail. Such an approach is a poor excuse for a lack of courage.

I am not one who ordinarily favors the imposition of unilateral sanctions. They rarely deprive the country in question of the products and services it is seeking. Yet when one commits crimes against humanity, harbors known terrorists, and threatens regional and possibly world peace, we are left with no choice but to take a clear stand in a way that even Saddam Hussein can understand.

I commend my colleagues, Mr. BERMAN and Chairman FASCELL, for their leadership on this important issue.

Mr. YATRON. Mr. Speaker, I first want to commend Chairman FASCELL and the ranking minority member of the Foreign Affairs Committee, Congressman BROOMFIELD, as well as the other chairmen and ranking members for their leadership in expeditiously bringing this extremely important legislation to the floor.

Mr. Speaker, Iraq's illegal and unjust invasion of neighboring Kuwait should come as no surprise. For years, the Hussein regime has engaged in massive human rights violations against its own people. This regime's reign of terror has included the use of chemical weapons to kill its own Kurdish population including innocent women and children. This is the same regime that was willing to sacrifice hundreds of thousands of its own people in a senseless war with Iran. And this is the same regime that threatened to burn half of Israel.

Iraq now invades a sovereign state because it disagreed with Kuwait's oil production. It did so because Iraq wants to increase oil prices which will in turn be absorbed by the American consumer.

This bill sends a clear message to the Government of Iraq that the President, the Congress, and the American people are fully committed to working with our allies to utilize all the economic and diplomatic tools at our disposal to compel Iraq to withdraw from Kuwait immediately.

Mr. Speaker, I urge my colleagues to unanimously approve this bill.

Mr. WEISS. Mr. Speaker, I rise in strong support of this legislation to condemn the invasion of Kuwait by Iraq's dictator, the tyrant Saddam Hussein. In response to this flagrant violation of international law, this bill rightly imposes a comprehensive trade embargo on Iraq.

The legislation also makes clear that the invasion of Kuwait is only the latest and most egregious violation by Saddam Hussein. The Iraqi dictator is guilty of gross abuses of human rights, severe repression of Iraq's Kurdish minority, the unspeakable use of chemical weapons against civilians, and—perhaps most ominously—the reported development of advanced nuclear weapons capability.

These actions alone would justify stiff sanctions against Iraq. But after last night's brutal and unprovoked invasion of Kuwait, nothing short of a comprehensive, multilateral embargo on imports and exports will suffice.

And this bill does just that—it mandates U.S. sanctions, and it calls on our allies to join in a multilateral effort to isolate Saddam Hussein, both economically and diplomatically. The bill further expresses strong support for the efforts of the U.N. Security Council to address this continuing threat to international peace. With such a firm, multilateral approach to the problem, the United States can play a crucial role in resolving the crisis.

Mr. Speaker, this is a tough—and appropriate—sanctions bill in response ot an outrageous violation of international law. I urge my colleagues to support the bill.

Mr. DYMALLY. Mr. Speaker, I rise to speak to this resolution.

In light of what is taking place in Kuwait as a result of the invasion by Iraqi forces, the concern for the adequate protection of the embassies and their personnel and the safety of United States citizens in Iraq and Kuwait is, indeed, most pressing.

The lives and properties of thousands of United States citizens in these two nations—approximately 4,000 in Kuwait and 500 in Iraq—are now threatened.

Most of these citizens are serving the best interest of the United States in increasing and enhancing U.S. competitiveness in these nations.

In light of this, the administration is hereby urgently requested to devise appropriate plans and exert every effort, short of militaristic intervention, to protect the lives and property of these United States citizens including the United States Embassies and Embassy personnel in Iraq and Kuwait.

More specifically, the President and the Secretary of State should enjoin the Embassies in these two countries to begin immediate negotiations with the appropriate parties in Iraq to obviate the possibility of United States citizens becoming hostages and to guarantee safe passage out of these countries if that course becomes necessary.

I urge my colleagues to support this amendment.

Mr. TRAFICANT. Mr. Speaker, I rise today to condemn the unprovoked attack of Iraq upon Kuwait, its innocent neighbor.

In the 1930's, the world turned away when Adolf Hitler took Austria. Hitler then went on to take Czechoslovakia, Poland, and France in his attempt to conquer the world.

In the 1980's, the world turned away when Saddam Hussein used poison gas on his own people, and then on the country of Iran. Saddam Hussein then threatened to scorch the very existence of Israel, our friend and most strategic ally in the Middle East, with weapons of mass destruction.

Today, Iraq ruthlessly conquered Kuwait. What's next? Israel? Saudi Arabia?

Let there be no mistake, that if the bloodthirsty Adolf Hussein is not satisfied with his conquest and turns his troops upon our strategic allies in Israel and Saudi Arabia that the United States will not hesitate to protect its interests. We have B-1's, B-2's, B-3's, B-14's, B-30's, B-52's, and B-100's and Adolf Huessin must know we do not have $1 trillion de-

fense budget to fund the neighborhood crime watch.

In Saddam Hussein's quest for power in the Arab world, he is bent on destabilizing the entire Middle East from the Persian Gulf to Jerusalem. The United States is prepared to deal with this new threat, but let it be known that the United States will not act as a rubber stamp for a 911 call, we expect all nations concerned to pay their fair share in the defense of this vital region. The American taxpayer cannot go it alone.

Let Saddam Hussein be put on notice: The United States Congress will not stand still for further aggression by Iraq.

Mr. BERMAN. Mr. Speaker, I rise in strong support of the legislation before the House today. The measures we are considering today are long overdue. The character and intentions of Saddam Hussein are no mystery to us. His aspirations of dominance over the entire Arab world have been obvious for many years.

Iraq's invasion of Kuwait constitutes a violation of the very core of international law: Respect for the borders of other sovereign nations. But Iraq does not now, and under Saddam Hussein has never had, any respect for international law.

In violation of an international agreement to which it is a party, Iraq callously used chemical weapons against Iran and casually used them after the war to kill over 5,000 of its own citizens. Iraq appears also to have signed and violated the Nonproliferation Treaty, as it cynically attempted to smuggle nuclear weapons components out of the United States earlier this year.

Our own State Department calls Iraq's record on human rights deplorable; to my reading, their record is the worst in the world. Over the last 10 years, Saddam Hussein has consolidated his government into the worst kind of dictatorship, where torture and terror are the routine means of controlling the population.

Iraq has developed three separate ballistic missile systems which reach all over the region. It is the largest weapons importer in the world and, though it sits on the second largest oil reserves in the world, is seriously in debt as it spends over 60 percent of its budget to maintain the largest standing army in the region.

The lesson of Iraq is clear: You win nothing by appeasing a bully. He merely becomes a bolder and more dangerous bully. Consider that no one communicated to Iraq that its use of chemical weapons was unacceptable; Iraq continued to use them against Iran and then proceeded to use them to solve a domestic problem. Point of fact: No one told Iraq that it was unacceptable to use its muscle to force higher oil prices out of OPEC; it got its price rise and went on to demand restitution payments, debt forgiveness, and border territory from Kuwait. This is preposterous.

Appeasing a bully gets us nowhere. The United States has a moral obligation to dissociate itself from this repressive and dangerous regime.

While I applaud its actions today, I regret that the administration, and the previous one as well, were for so long unwilling to take a stance and consider sanctions. The opportunity to act has been available for some time now. If the United States had imposed sanctions on Iraq 2 years ago, as I proposed after Iraq's use of chemical weapons, Saddam Hussein would not today be occupying Kuwait City.

The lessons of that lackluster policy will cost us dearly, though not as dearly as what it is costing Kuwait. We must look ahead now to see to it that Saddam Hussein does not misread our intention not to permit his savagery to go unpunished. I also hope that the rest of the world will take not of this lesson and will join us by conveying through concrete acts their own condemnation of Iraq's aggression against Kuwait.

Ms. SLAUGHTER of New York. Mr. Speaker, I commend Chairman FASCELL and the Foreigns Affairs Committee for their expeditious work on the sanctions legislation we have before us.

Some of us were not too surprised by the early morning news of Iraq's invasion of Kuwait. We knew Saddam Hussein was undependable and not to be trusted when he attacked Kuwait at the recent OPEC meeting. We also know that Iraq is not above using chemical weapons against its own people. These are the very reasons this House voted sanctions against Hussein in considering the farm bill last Friday.

Today, we must pass the stringent economic sanctions recommended by the Foreign Affairs Committee. Economic and diplomatic pressures are the only way we'll achieve peace in the Persian Gulf. None of us wants to see an armed resolution to this conflict. Above all else we must remember that we've still got hostages over in Lebanon. Every time I hear macho rumblings in the Middle East, things get volatile, and I fear for the lives of Terry Anderson and the other Western hostages. They make for easy retaliation targets and we must not jeopardize their safety. The economic sanctions we consider today are the most judicious response to the present emergency and the most likely to bring Iraqi President Saddam Hussein to his senses.

For the first time, in dealing with a Middle East crisis, we can turn to the Soviet Union for help. Working together, the world's economic powers should be able to convince Hussein to end Iraqi aggression in Kuwait. Not only must we prevent Hussein from obtaining nuclear technology and chemical weapons, we must cut off his lifeline by refusing to purchase his oil. All Hussein's got is oil and we all know his people can't eat that. We must pass this sanctions bill and get that message across loud and clear.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 5431.

This legislation essentially codifies what the President did this morning via Executive order and puts the Congress—Democrats and Republicans alike—foursquare behind President Bush's policy.

The legislation correctly condemns Iraq's invasion of Kuwait.

It codifies a ban on all—not just military or dual use items—but all imports and exports.

All assets of both Iraq and Kuwait—to protect Kuwait from further raiding of its financial base by Iraq—are frozen. This includes all property and interests in property of the Iraqi Government, in addition to that Government's agencies, and controlled entities and the Central Bank of Iraq that are in the United States.

The aggressive and belligerent invasion of Kuwait by Iraqi armed forces puts President Hussein's regime totally outside the norms of internationally accepted behavior. This invasion culminates Iraqi's systematic massing of as many as 100,000 troops along the Iraqi-Kuwaiti border.

I agree with the President that we have a moral obligation not to carry on "business as usual" in our relations with that government, and I believe we have no alternative but to respond with this statement of disapproval with Iraq's recent actions and impose this list of sanctions against the regime.

Mr. Speaker, the Human Rights Subcommittee recently marked up and approved House Concurrent Resolution 298, condemning this persistent pattern of the abuse of human rights which has become the norm in Iraq in recent years. The world was horrified when it became known, in 1988, that Iraq had responded to Iran's growing military pressure and use of chemical weapons with their own chemical weapons—not only against their enemies but also killing innocent civilians.

We continue to receive reports of the torture—in fact, the imprisonment and torture of children, summary executions, and the arrest and lengthy detention without trial of President Hussein's political opponents. Thousands have been listed as disappeared and the Government of Iraq has failed to provide explanations for these missing individuals. As noted in the State Department's country report on Iraq, its human rights record is abysmal.

President Hussein's warning that his country is prepared to use binary chemical weapons if attacked, is a strong indication that he has no qualms about violating the Geneva Protocol regarding the use of chemical warfare. The aggressive movements taken last week to amass as many as 100,000 army troops, as well as tanks and rockets, along the Iraqi border with fellow oil-producer Kuwait have forced the United States to take our national security concerns into account. In fact, the sanctions bill we passed out of the Foreign Affairs Committee yesterday, includes an amendment I offered which highlighted the saber rattling actions taken by President Hussein and his army in the last week. My amendment was adopted.

As my colleagues may know, President Hussein has accused Kuwait and the United States of trying to sabotage Iraq's economy by trying to lower world oil prices. In addition, Iraq has made it clear that it wants to make good on long-running Iraqi claims on parts of Kuwaiti territory. It has been reported that Iraq's maximum demands on Kuwait could include as much as $10 billion in aid, $2.4 billion for allegedly stolen oil, cancellation of $10 billion in debts incurred during the war with Iran, and a renunciation of Kuwait's claims to the disputed Rumaila oilfield, which extends beneath both countries.

Mr. Speaker, I believe the time has come for the United States to respond to the string of events which the Iraqis have provoked.

Mr. CRAIG. Mr. Speaker, today the world has seen proof of the danger Saddam Hus-

sein poses to continued peace in the Middle East. I cannot express too strongly my condemnation of the Iraqi invasion of Kuwait.

Aside from his total disregard for Kuwait's territorial sovereignty and basic human rights, in one swift move Hussein has gained control of 20 percent of the world's oil supply, which will clearly effect the U.S. economy. Hussein has stated that his goal was to drive world oil prices to $30,00 a barrel—if that happens, this Nation and other energy dependent nations would experience severe economic impact.

For these reasons, I joined my colleagues in unanimous support to impose sanctions against Iraq. I am pleased that our Nation has come together with a united voice to denounce Iraq's actions and to give our support to Kuwait. Peace in the Middle East has long been a pursuit of U.S. foreign policy and those efforts are now at risk. Hussein is a real danger to our interests in the gulf region and to our ally Israel. The United States can no longer view Iraq's threats against Israel, or any other country in the Middle East, as empty words.

I support the actions taken by the President and I urge my fellow colleagues in Congress to do the same. At a time when our eyes have been focused on peace, we must not forget that the act of a single leader could plunge us into war. World peace is within reach, there can be no place for this sort of unprovoked belligerent action. For the sake of our allies in the region we must stand-up to Hussein.

Mr. LEVINE of California. Mr. Speaker, all those who have had their heads in the sand about what Saddam Hussein is really about are being forced to face reality today.

The reality is that we are faced with a tyrant in the Middle East whose appetite for power, domination and territory knows no bounds.

No one should have been caught unaware by Iraq's invasion of Kuwait. A number of us in this body have been pleading for a considerable period of time for our colleagues and the administration to believe that Saddam Hussein means what he says. His threats are not an idle "war of words."

It's crazy to think we can call his bluff, because Saddam Hussein is not bluffing.

Saddam Hussein has massacred thousands of his own citizens with poison gas.

He has the worst human rights record in the world, allows no dissent whatsoever, tortures and executes prisoners and real and perceived opponents, and generally has obliterated any concept of basic civil rights and freedoms in Iraq.

He has threatened to incinerate half of Israel with chemical weapons—a threat the Bush administration has countered with little more than shrugs.

Despite these most heinous acts of Hussein's regime, the administration has consistently before today resisted any efforts to thwart Iraq's quest for domination and his thirst for terror.

We have essentially been engaged in a policy of appeasement.

I ask my colleagues then, is it any wonder that Saddam Hussein was emboldened enough to essentially annex Kuwait this morning?

Mr. President, of course I strongly, strongly support this embargo bill before us this afternoon. I am only saddened that we did not take this decisive action earlier. If we had enacted strong sanctions earlier, we may not be facing the crisis in the Middle East we are facing today, with all the attendant repercussions for our energy security and our economy. Had we stood up to Saddam Hussein earlier, and encouraged our allies to do the same, we may have been able to prevent this.

It is now absolutely essential that we move immediately, decisively, and in concert with our allies to enact the strongest possible measures against Iraq. International condemnation must be combined with international economic aotion to embargo and isolate that country completely.

Unless we force Saddam to pay a stiff price for this latest atrocity, he will continue to raise the stakes, and I fear we will continue to pay dearly for his growing megalomania.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of the pending legislation to impose stiff sanctions against the nation of Iraq and its despotic ruler, Saddam Hussein, in the wake of the invasion of Kuwait.

The Iraqi invasion of Kuwait is an unacceptable act of aggression by a dangerous tyrant who is known for his flagrant human rights violations and his barbaric use of force against neighboring nations and his own citizens.

The invasion not only threatens to disrupt the supply of oil to the United States and other nations, it also heightens the risks of conflict throughout the entire Middle East, where a massive military build-up in the Arab world has contributed to dangerous instability. Hussein's unrestrained aggression against his neighbors threatens to plunge the entire region into conflict, at a severe cost to the United States and its allies.

It is imperative that the United States respond swiftly and strongly to the Iraqi invasion. President Bush did just that earlier today when he froze Iraqi assets and blocked most oil imports from that nation. This legislation provides strong support for the actions the President has already taken, and it provides him with additional tools to place added pressure on Iraq to help bring to an end the aggression by that nation.

The actions of Iraq should be condemned by all civilized peoples, and we should join with as many other nations as possible in applying strong pressure on Iraq to end its occupation of Kuwait. It is essential that we do so as quickly as possible, so that we can minimize the disruption to world oil supplies and prevent the conflict from escalating further. In addition, we should take all appropriate steps to ensure the safety of Americans in that nation.

Mr. Speaker, as I mentioned earlier, the President has already acted forcefully to respond to the tragic incidents in Kuwait. This legislation will help the President go even further to protect our interests and our allies in that region of the world.

I urge my colleagues to demonstrate their unanimous opposition to Iraq's unwarranted invasion, and their commitment to assist the President in responding forcefully to this aggression, by approving this important legislation.

The SPEAKER pro tempore. Without objection, the Chair will put the question of final passage.

There was no objection.

The SPEAKER pro tempore. The question is on the passage of the bill. The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 0, answered "present" 1, not voting 15, as follows:

[Roll No. 303]

YEAS—416

Ackerman	DeFazio	Hertel
Alexander	DeLay	Hiler
Andrews	Dellums	Hoagland
Annunzio	Derrick	Hochbrueckner
Anthony	DeWine	Holloway
Applegate	Dickinson	Hopkins
Archer	Dicks	Horton
Armey	Dingell	Houghton
Aspin	Dixon	Hoyer
Atkins	Donnelly	Hubbard
AuCoin	Dorgan (ND)	Huckaby
Baker	Dornan (CA)	Hughes
Ballenger	Douglas	Hunter
Barnard	Downey	Hutto
Bartlett	Dreier	Hyde
Barton	Duncan	Inhofe
Bateman	Durbin	Ireland
Bates	Dwyer	Jacobs
Beilenson	Dymally	James
Bennett	Dyson	Jenkins
Bentley	Early	Johnson (CT)
Bereuter	Eckart	Johnson (SD)
Berman	Edwards (CA)	Johnston
Bevill	Edwards (OK)	Jones (GA)
Bilbray	Emerson	Jones (NC)
Bliley	Engel	Jontz
Boehlert	English	Kanjorski
Boggs	Erdreich	Kaptur
Bonior	Espy	Kasich
Borski	Evans	Kastenmeier
Bosco	Fascell	Kennedy
Boucher	Fawell	Kennelly
Boxer	Fazio	Kildee
Brennan	Feighan	Kleczka
Brooks	Fields	Kolbe
Broomfield	Fish	Kolter
Browder	Flippo	Kostmayer
Brown (CA)	Foglietta	Kyl
Brown (CO)	Frank	Lagomarsino
Bruce	Frenzel	Lancaster
Bryant	Frost	Lantos
Buechner	Gallegly	Laughlin
Bunning	Gallo	Leach (IA)
Burton	Gejdenson	Lehman (CA)
Bustamante	Gekas	Lehman (FL)
Byron	Gephardt	Lent
Callahan	Geren	Levin (MI)
Campbell (CA)	Gibbons	Levine (CA)
Campbell (CO)	Gillmor	Lewis (CA)
Cardin	Gilman	Lewis (FL)
Carper	Gingrich	Lewis (GA)
Carr	Glickman	Lightfoot
Chandler	Gonzalez	Livingston
Chapman	Goodling	Lloyd
Clarke	Gordon	Long
Clay	Goss	Lowery (CA)
Clement	Gradison	Lowey (NY)
Clinger	Grandy	Lukens, Donald
Coble	Grant	Machtley
Coleman (MO)	Gray	Madigan
Coleman (TX)	Green	Manton
Collins	Guarini	Markey
Combest	Gunderson	Marlenee
Condit	Hall (OH)	Martin (IL)
Conte	Hamilton	Martin (NY)
Conyers	Hammerschmidt	Martinez
Cooper	Hancock	Matsui
Costello	Hansen	Mavroules
Coughlin	Harris	Mazzoli
Courter	Hastert	McCandless
Cox	Hatcher	McCloskey
Coyne	Hawkins	McCollum
Craig	Hayes (IL)	McCrery
Crane	Hayes (LA)	McCurdy
Dannemeyer	Hefley	McDade
Darden	Hefner	McDermott
Davis	Henry	McEwen
de la Garza	Herger	McGrath

McHugh	Ravenel	Snowe
McMillan (NC)	Ray	Solarz
McMillen (MD)	Regula	Solomon
McNulty	Rhodes	Spence
Meyers	Richardson	Spratt
Mfume	Ridge	Staggers
Michel	Rinaldo	Stallings
Miller (CA)	Ritter	Stangeland
Miller (OH)	Roberts	Stark
Miller (WA)	Robinson	Stearns
Mineta	Roe	Stenholm
Moakley	Rogers	Stokes
Molinari	Rohrabacher	Studds
Mollohan	Ros-Lehtinen	Stump
Montgomery	Rose	Sundquist
Moody	Rostenkowski	Swift
Moorhead	Roth	Synar
Morella	Roukema	Tallon
Morrison (CT)	Rowland (CT)	Tanner
Morrison (WA)	Rowland (GA)	Tauke
Mrazek	Roybal	Tauzin
Murphy	Russo	Taylor
Murtha	Sabo	Thomas (CA)
Myers	Saiki	Thomas (GA)
Nagle	Sangmeister	Thomas (WY)
Natcher	Sarpalius	Torres
Neal (MA)	Savage	Torricelli
Neal (NC)	Sawyer	Towns
Nielson	Saxton	Traficant
Nowak	Schaefer	Traxler
Oakar	Scheuer	Udall
Oberstar	Schiff	Unsoeld
Obey	Schneider	Upton
Olin	Schroeder	Valentine
Ortiz	Schuette	Vander Jagt
Owens (NY)	Schulze	Vento
Owens (UT)	Schumer	Visclosky
Oxley	Sensenbrenner	Volkmer
Packard	Serrano	Vucanovich
Pallone	Sharp	Walgren
Panetta	Shaw	Walker
Parker	Shays	Walsh
Parris	Shumway	Washington
Pashayan	Shuster	Watkins
Patterson	Sikorski	Waxman
Paxon	Sisisky	Weber
Payne (NJ)	Skaggs	Weiss
Payne (VA)	Skeen	Weldon
Pease	Skelton	Wheat
Pelosi	Slattery	Whittaker
Penny	Slaughter (NY)	Whitten
Perkins	Slaughter (VA)	Wilson
Petri	Smith (FL)	Wise
Pickett	Smith (IA)	Wolf
Pickle	Smith (NJ)	Wolpe
Porter	Smith (TX)	Wyden
Poshard	Smith (VT)	Yates
Price	Smith, Denny (OR)	Yatron
Pursell	Smith, Robert (NH)	Young (AK)
Quillen	Smith, Robert (OR)	Young (FL)
Rahall		
Rangel		

NAYS—0

ANSWERED "PRESENT"—1

Williams

NOT VOTING—15

Anderson	Ford (TN)	Lipinski
Bilirakis	Gaydos	Luken, Thomas
Crockett	Hall (TX)	Nelson
Flake	LaFalce	Smith (NE)
Ford (MI)	Leath (TX)	Wylie

□ 1452

Mr. COURTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5431, the bill, as amended, just passed.

The SPEAKER pro tempore (Mr. SIKORSKI). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I further ask unanimous consent that the remarks of those Members who revise and extend their remarks today, that their remarks may be included in the RECORD just prior to the vote on H.R. 5431, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair will receive 10 1-minutes from each side.

PRESERVE THE CIVIL RIGHTS ACT

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, earlier today in Statutory Hall in an event sponsored by both the Congressional Black Caucus and the congressional Hispanic caucus, we commemorated the courageous action taken by the U.S. Congress 25 years ago in signing the Voting Rights Act of 1965. We also paid tribute to those 30 Members of Congress who presently serve in the Congress who were there and voted for that civil rights bill, that Voting Rights Act of 1965.

I thus take this well to point out the incredible contradiction, the extraordinary irony, indeed the shame, that we have to leave that hall to come to the floor of this Congress this afternoon to protect and preserve, and hopefully allow to survive the Civil Rights Act of 1990. It is my hope, Mr. Speaker and Members of this House, that the Members of this Congress will have the same courage to stand up in the winds of justice, to seek on behalf of the citizenry of this country. I want to say to all of my colleagues on both sides of the aisle, but particularly the colleagues on this side of the aisle whose party this Member is a member of, for those Members who are the members of the Congressional Black Caucus, this is throw-down time. This is the bottom line. This is integrity.

There is no substitute to freedom and human dignity, the minority party substitute notwithstanding, there is no substitute for justice. I have served here for 20 years with all Members eyeball to eyeball with dignity and a sense of freedom and a sense of justice. Join Members to pass the 1990 Civil Rights act so that we can look each other in the face and go down the road, meeting our justice, meeting our destiny as equal human beings.

MAKE HISTORY WITH CIVIL RIGHTS VOTE

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as we see the walls of communism falling down around the world, it is natural to assume that many people will be coming to these great United States to see how a multiracial society could survive and to do so well. The answer will be that we did it the hard way, that many black and white lives were lost, that we suffered lynching, barking dogs, and roaring firehoses, but we did it when good-thinking people came together and said it was not just good for blacks, it was good for our country.

Many Members in this Congress played a role in this by voting for the legislation which my colleague, the gentleman from California [Mr. DELLUMS] has talked about. However, now comes the time when once again history is going to be made and a vote is going to be taken as to which side a Member was on. There are some who believe that they have a better understanding of the problems than the victims of racism and prejudice in this country. There are some who believe that they can think better than the Committee on the Judiciary and the Committee on Education and Labor. There are some who are arrogant enough to believe that they know better than every civil rights organization in this country.

However, the record will speak for itself, and that is, did you vote for the civil rights bill, and did you vote against any crippling amendment?

SUPPORT 1990 CIVIL RIGHTS ACT

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, with the exception of the dean of the Congressional Black Caucus delegation, I am the only other Member of that distinguished body that was here in 1965, and I approach the well with confidence about what will occur today as we celebrate the 25th year of the Voter Rights Act of 1965. It is my belief that this Congress will support the 1990 Civil Rights Act that has been reported out of two of its major committees.

□ 1500

Mr. Speaker, I would address just one part of that legislation that has had a very difficult debate all the way

through, and that is the notion that quotas are somehow connected with this bill as we try to eliminate job discrimination. I have gone through both of the copies of the bill. We have examined it completely, and I want to assure the Members that if anyone raises the question of quotas, I do not know where they are. There is no reference to quotas in this bill. As a matter of fact, we have gone out of our way to continue a Supreme Court decision that, while it was operating, had no quota result whatsoever.

So, Mr. Speaker, I ask the Members on both sides of this great body to join us in this great measure that will soon be before us for our decision.

EQUALITY, FAIRNESS, DEMOCRACY EMBODIED IN CIVIL RIGHTS BILL

(Mrs. COLLINS asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I rise to urge all the Members of this body to vote for the 1990 Civil Rights Act.

Although I do not like being called one, I stand here as a two-fer. There is no question that I am black, and there is no question that I am a woman. I fit two minority standards, and those of us who are minorities really understand how important it is and that others must know how much we want this particular act.

Every African-American wants the passage of this act, every Hispanic-American wants the passage of this act, every Asian-American wants the passage of the 1990 act, every native American wants the passage of this act, every woman wants passage of this act, and every other minority group in this Nation wants to see the 1990 Civil Rights Act pass.

It seems to me that our effort today must not be to turn back the hands of time. That is what we will be doing if this act is not passed. That is what we will be doing if we do not stand up straight and vote straight up for equality, for fairness, for democracy, for everything that this Nation stands for.

LET THE BEST NEW YORK TRADITION PREVAIL ON CIVIL RIGHTS

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, New York State was one of the last original States to sign the Constitution. New York State was also one of the last Northern States to free its slaves. Political and moral confusion is one of the undesirable traditions of New York State.

Unfortunately, as we consider the Civil Rights Act of 1990, this tradition of New York's diseased decisionmaking process threatens to wreck this vitally needed civil rights legislation. A deformed monster amendment has been crafted by a New York State colleague of mine, the chairman of the Committee on Small Business. As it was in the case of slavery, a New Yorker is hiding behind the so-called pragmatic and business considerations instead of standing up to the moral and humanitarian imperatives of this legislation as presented by the committee of jurisdiction.

Mr. Speaker, I deeply regret that this fuzzy minded, technicality overwhelmed thinking has crawled out of the sewers of New York State's worst legacy.

The other more glorious leadership tradition of New York State is a record of toughmindedness, boldness, and compassion for all people. It is a record of Franklin Roosevelt, Robert Wagner, and others. I speak as a representative of this great tradition when I strongly urge the Members to vote down the dangerous monster amendment sponsored by the opposition.

Mr. Speaker, I ask the Members to listen to the voices which represent the best of New York State's Democratic Party tradition and vote yes to support the committee-sponsored Civil Rights Act of 1990.

NO QUOTAS, PUNITIVE DAMAGES, OR RETROACTIVITY IN CIVIL RIGHTS BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the vote today is whether we are going to strike a dagger through the heart of the civil rights bill. In the past 10 years the Reagan Supreme Court has turned back the clock on the Civil Rights Act of 1964 and the Voting Rights Act. The Supreme Court basically sent two messages: First, that it is OK to discriminate if you have a good lawyer, and, second, that it is OK to discriminate if it is bad for business. Today we vote on whether we go back or we go forward.

Mr. Speaker, this is not a bill for minorities, for blacks, or for Hispanics. It is a bill for women and the disabled majority of our population.

Mr. Speaker, does H.R. 4000 shift the burden of proof to employers? The answer is "no." Does this bill provide punitive damages for the first time? The answer is "no." Does it apply retroactively? The answer is "no." Does it result in quotas? The answer is "no."

Mr. Speaker, there is no reason to turn back the clock. Let us go forward.

EMPLOYMENT DISCRIMINATION ADDRESSED IN CIVIL RIGHTS ACT

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in strong support of the H.R. 4000, the Civil Rights Act of 1990, to restore key protections against employment discrimination. Regrettably, these protections have been threatened in recent months by decisions handed down by the Supreme Court.

Today we celebrate the 25th anniversary observance of the passage of the Voting Rights Act of 1965. That landmark legislation kindled hope in the hearts of countless Americans who, up until that time, had been shut out of the American dream.

I want to stress that the bill we have before us today is not a radical overhaul of our employment discrimination laws. Rather, this measure seeks to restore the important protections that have helped make our society more fair and just since the passage of the Civil Rights Act of 1964.

The bill specifically states that "Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas * * *"

The Civil Rights Act of 1990 is a bill that is good for America. As the leader of the free world, the United States should continue to set a shining example for nations who are now embracing democracy and the principle of fairness it represents.

It is also important that we sharpen our competitiveness in the international marketplace. As more women and minorities enter the work force of the 1990's, it is in our Nation's best interest to continue to open up opportunities which will help strengthen our entire economy. We cannot achieve this goal if we weaken policies that have worked well, such as the prohibition of employment practices that have a "disparate impact" on women and minorities.

Like many others, who were involved in the civil rights movement in the 1960's, I am proud of the progress we as a Nation have made. It is my hope that we, as Americans, will live up to our ideal of one nation, indivisible, with liberty and justice for all. We have come too far, and invested too much, to turn back at this significant moment in history.

CIVIL RIGHTS LEGISLATION SHOULD BE PASSED WITHOUT WEAKENING AMENDMENTS

(Mr. MFUME asked and was given permission to address the house for 1

minute and to revise and extend his remarks.)

Mr. MFUME. Mr. Speaker, the real bottom line is this: What this really comes down to, after all our glorious pronouncements in this body day after day and week after week, is whether we are prepared as men and women duly elected to do the right thing, not to be ostriches and stick our heads in the sand, but to hold them high and to move forward.

Those nameless, faceless Americans who are black and white from the North and the East and the South, the old and the young, gave everything they had because they had a dream that this Nation would live out the true meaning of its creed, that it would be, in fact, one nation under God and the pursuit of happiness could be everyone's pursuit. We have to wonder now how we can find ourselves grappling on the verge of not knowing whether or not we are going to pass this civil rights bill because of a weakening substitute amendment.

The chairman of the caucus is right, there really is no substitute for justice. There can be no substitute for integrity. There is no substitute at all for fairness. We cannot come here and enjoy the comfort of opinion without the discomfort of thought. We cannot come here as we do day in and day out believing that we can somehow shirk our responsibilities. Few will remember what we say here today, but all will remember what we do.

Mr. Speaker, I urge this body to do the right thing and pass the Civil Rights Act of 1990.

□ 1510

THE RIGHT THING TO DO

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I do not think anyone can be as eloquent as the previous eight speakers. I do not intend to be.

Mr. Speaker, I sit on the Committee on the Judiciary. I say to those of my colleagues that vote against this bill today, "You're not doing what's right."

Mr. Speaker, that is unfortunate to say, but it is true. This is the thing to do. This is the American thing to do. This is the right thing to do, and my colleagues have heard eight eloquent statements to that fact.

However, Mr. Speaker, I also want to say something else. We are in a very dangerous situation right now, the invasion by Iraq of Kuwait. It is a very serious attempt to corner what is our lifeline, our blood line, in this country, the oil that flows to run our country. We have got to be very careful and very much prepared to do what we need to do there also to protect, not only the freedoms of those people in the region, but to prevent this madman from turning south, and turning right and going into Saudi Arabia. We sold Stinger missiles over the objections of a lot of people in this body to Kuwait. Now in whose hands are those missiles? The 17 political prisoners that were involved in terrorism, that the Kuwaitis refuse to give up even under pressure even from Iraq. Where are they now? In the hands of Iraq. Probably will get a hero's welcome in Baghdad riding down the street.

There is a lot more. Fifty billion dollars' worth of arms in Saudi Arabia, if he chooses to go after them.

Mr. Speaker, we have got to be very careful.

I hope the President will continue his strong actions on Iraq and make sure that we stop this now before it gets worse and affects America even worse than it has.

CIVIL RIGHTS ACT SHOWS WE STAND FOR HUMAN RIGHTS EVERYWHERE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I, too, want to comment on the situation in Iraq and Kuwait.

Mr. Speaker, I commend this House for unanimously passing the Iraq sanctions bill. I think we need to reflect, as we see what the bloodthirsty terrorist Saddam Hussein with blood dripping from his hands is attempting to do. We must make sure that our allies in the Middle East are strengthened both militarily and economically. We need to continue our aid to Israel and Egypt, which are the voices of reason in the Middle East, and not do things to undermine them.

Mr. Speaker, it is very, very important that we stand up to the thug, Saddam Hussein, that we say that this country will not tolerate the wholesale murder of women and children and all people, and that we stand for something here. It is very important to continue foreign aid to our friends and allies, particularly in the Middle East.

I want to say that I also want to join with my colleagues in saying that it is very important for us today to pass the Civil Rights Act of 1990 and to show our commitment to civil rights and human rights for everyone around the world, in Iraq, in Kuwait, in the Middle East, and right here at home in the United States of America.

NEIGHBORHOOD CRIME WATCH?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the world turned away when Hitler took Austria. He then took Czechoslovakia. He took Poland, and he took France, and then everybody started looking at Adolph!

Let there be no mistake. "Adolph" Hussein used poison gas on his own countrymen. He then used chemical weapons against Iran. This man literally made a threat against the existence of Israel, our true ally over there in a cluster of monarchs and dictators. Let there be no mistake, "Adolph" Hussein is dangerous!

What is next? I say we have B-1's, B-2's, B-14's, B-15's, and 16's. Mr. Hussein, "Adolph" Hussein, must know that we are prepared to use them, and not just on a 911 basis. The American taxpayers will not pay for it all, but we will certainly provide the service if the rest of the world will pitch in and help pay the bill.

In addition, Mr. Speaker, we must understand something. We do not have a $300 billion defense budget to fund the neighborhood crime watch, and if need be, we'll use it. Think about it, folks.

H.R. 4000—THE PROMISED LAND

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today in support of H.R. 4000, the Civil Rights Act of 1990. It is imperative that we understand that there are many citizens in this country who found themselves in pursuit of that elusive promised land only to discover that each time it appeared they were ready to cross over there was something in the way or there was someone who created a mechanism to block their way. That is the case as it relates to the Supreme Court action recently, as it relates to those who have been in pursuit of this promised land.

So, Mr. Speaker, today we come with the glorious opportunity in this House of Representatives to say to this Nation, to say to the world, that this is a country of inclusion, there are some that have been able to get into the promised land and to reap the benefits of its riches, that we are open now to receive all of our citizens and allow them full participation.

Mr. Speaker, there is no greater piece of legislation before this House in this session of Congress than this particular bit of legislation on civil rights. It is time for America to once and for all say that we will not be a nation where there are some who are on the outside while others are in, some who are rich while others are poor, some who have shelters while others do not, that there will be people who will not be included with

fairness in this justice system with some degree of equanimity.

Mr. Speaker, I say it is time for us to vote for this Civil Rights Act so that we do not have to come back again trying to get into the promised land. This is our chance. Let us move.

SUPPORT OF THE CIVIL RIGHTS ACT OF 1990

(Mr HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, last year America's progress toward the goal of equal opportunity for all was threatened by a Supreme Court out of step with our society. As a result, millions of Americans can no longer count on the protections of civil rights laws dating back to the 1960's and even the 1860's.

Just over a quarter century ago, Congress passed the Civil Rights Act of 1964 which outlawed discrimination in employment, public accommodations, and Federal funded programs. Ironically, today, we celebrate the 25th anniversary of the passage of the Voting Rights Act of 1965.

Now, more than 25 years after enactment of these historic acts, discrimination continues to keep minorities and women from fully participating in the work force. It would certainly be a sad commentary if we were to fail today to restore and strengthen our laws that attempt to wipe out prejudice on the job. We cannot allow nor accept this administration's attempt to turn back the clock on civil rights. All Americans deserve the right to equal employment opportunity, and that is why I am an original sponsor of the Civil Rights Act of 1990 and why I will strongly encourage passage of this legislation without weakening amendments.

Before we as a nation can move forward, we must reaffirm this Nation's basic commitment of civil rights—a commitment that seems to have escaped the notice of the current Supreme Court.

Congress must not retreat from its commitment to this ideal and must not allow a judicial dismantling of the advances made thus far. I encourage my colleagues' support of H.R. 4000.

CIVIL RIGHTS ACT OF 1990

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 449 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 449

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, with ninety minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with ninety minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part one of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. No amendment to said substitute shall be in order except those printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. It shall be in order to consider en bloc the amendments numbered one in part two of the report and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After passage of H.R. 4000, it shall be in order to take from the Speaker's table the bill S. 2104 and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 4000 as passed by the House, and all points of order against said motion for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. It shall then be in order to move to insist on the House amendment to S. 2104 and to request a conference with the Senate thereon.

□ 1520

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 449 is a modified open rule providing for 3 hours of general debate, to be equally divided between the chairman and ranking minority members of the Committee on Education and Labor and the Committee on the Judiciary on H.R. 4000, the Civil Rights Act of 1990, to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The resolution makes in order an amendment in the nature of a substitute now printed in the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the 5-minute rule and said substitute is to be considered as having been read. All points of order against the substitute for failure to comply with clause 7 of title XVI (germaneness) are hereby waived.

The rule makes in order 3 amendments with 20 minutes of debate on an amendment on quotas, and 20 minutes of debate on an amendment to cap damages. Two hours of debate are provided in the Republican substitute (Michel/LaFalce). At the conclusion of the consideration of the bill for amendment, the rule provides for one motion to recommit.

Finally, after passage of H.R. 4000, the rule makes in order a motion to take S. 2104 from the Speaker's table and to consider the bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 4785 as passed in the House.

A motion to insist on the House amendment and to request a conference with the Senate may then follow.

House Resolution 449 provides that Members may fully debate this bill and provides that Members may choose one of two distinctly different alternatives to deal with discrimination in our post-1989 Supreme Court era.

Some would have us believe that certain kinds of discrimination are more onerous than other kinds of discrimination. I certainly do not mean to speak for all blacks in Congress or all black people but I can tell you from my personal view, that while racial discrimination certainly is debilitating in this country or wherever a person might feel it, I have a hard time understanding how any kind of discrimination that might be based upon gender, age, physical disability, would somehow be better or worse than discrimination based on race.

As far as I can tell, even though there might be a longer history or more intense history of discrimination based upon race in this country that requires a strong solution as a class, for people who suffer individual discrimination, there ought to be the same remedies in law.

H.R. 4000 as written by these two committees: Education and Labor, and Judiciary, provides that equality under the law which is so important to all of us who oppose discrimination in any form.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a closed rule and I must oppose it. Here we are, being asked to consider a civil rights bill under the terms of a closed rule, and how ironic that is. Make no mistake about it, this is a closed rule. If truth-in-labeling statutes were applied to the products being churned out by the Rules Committee lately, this rule would have to be called modified closed, and that is being generous to it.

With this rule, Mr. Speaker, we will cross the 50 percent threshold. As of today, this House of Representatives will chalk up more restrictive rules than open rules during this 101st Congress, and Mr. Speaker, this is a shame.

During this Congress, the House has seen fewer open rules than in any other Congress in modern times.

In my view, closed rules are indicative of closed minds. It is one thing to structure a rule so as to provide for a systematic and free debate, and that is what we all want. It is quite another thing to structure a rule so as to affect the final outcome of that debate. This rule falls into that latter category, unfortunately.

What many of us, particularly on this side of the aisle, resent is the denial in this rule of the minority's right to offer a motion to recommit with instructions. The argument comes back from our friends on the other side of the aisle that when a rule makes in order a Republican substitute, that we Republicans should not get another bite of the apple.

Well, I do not think the gentleman from New York [Mr. LAFALCE] who will be offering the substitute today considers himself to be a Republican. He is a Democrat. I served with him in the New York State Legislature. He is a very fine Democrat. Certainly his substitute will have broad support from Republicans on this side of the aisle; but there is a larger problem with the argument that the offering of a substitute should preclude the minority's right to offer a motion to recommit with instructions.

Mr. Speaker, the precedent for such a minority right goes all the way back to 1913. It has only been in the last few years that the majority has begun to assert that the offering of a minority substitute is our only bite at the apple; but Mr. Speaker, when the House is considering a bill under an open rule, the minority has that right and has always has that right to offer a substitute, as well as the right to offer a motion to recommit with instructions.

By denying us that right in this rule, the majority is telling us that this rule is by definition a closed rule.

Mr. Speaker, open rules are necessary in the legislative process. If people are treated like adults, they will act like adults.

□ 1530

Yesterday, for example, the House passed a $28 billion authorization bill for housing programs. The rule governing consideration of that bill was the only fully open rule on a major authorization bill during this entire Congress, the only one. What happened? We had a dignified and a constructive debate in the best traditions of this House. Fears that the process would drag on forever, that there would be an endless proliferation of amendments, did not come true at all. Such fears did not prove to be justified at all.

In short, Members on both sides of the aisle took the legislative process seriously, and we acted seriously.

Mr. Speaker, we had a similar experience with the recently enacted legislation on behalf of disabled Americans. Do my colleagues over on that side of the aisle remember that bill? The rule on that bill was not entirely open, but it did represent a serious bipartisan effort to provide the House with a variety of important amendments. And what happened? We passed a very complicated bill, sent it down to the President, and now it is law.

Do we think this law is going to become law under this rule? Mr. Speaker, we cannot be so sure about this bill. If this bill is just ramrodded through without the Michel-LaFalce substitute and without some real bipartisan effort in the conference, we can pretty much expect to see this bill dead on arrival at the White House. Maybe that is what the Democratic leadership wants; I do not know. Maybe they would rather just posture than really get a bill. If that is the case, they certainly appear to be going about it in the right way.

But at least some of us believe that the legislative process and the issue of civil rights are too important to be trivialized with this kind of action on the floor, and so I cannot ask my colleagues to vote for this rule, nor can I support the bill in its present form.

I will not belabor the point, Mr. Speaker, about the bill. It needs much more work than this rule permits. Mr. Speaker, in testimony before the Committee on Rules, H.R. 4000 was variously described as the Lawyers' Full Employment Act, the Employers' Intimidation Act, and I would suggest that we call it the Congressional Hypocrisy Act as well.

Once again, this Congress is exempting itself from the laws it is determined to foist on the rest of the country. If this bill is such a good idea for millions of employers and employees across this country, how come it is not such a good idea for 435 Members of this House, 100 Senators, and their 38,000 employees? They are not affected by this bill. Why not? If this bill were open to debate under an open rule, the gentleman sitting over here, the gentleman from Wisconsin [Mr. SENSENBRENNER], would offer an amendment that would bring this House under the terms of this bill.

Mr. Speaker, I will not take any more time. There are other Members who have more experience with legal issues than I do who will take time during general debate to explain the serious deficiencies of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a number of requests for time. I want to make it available to those who requested it.

I do want to point out one more thing about his rule, and I perhaps failed in my intent to make this perfectly clear. The rule does allow for a substitute. It is the Michel substitute. The gentleman from New York is correct in pointing out that the other side should be allowed a substitute to this bill, and that is, in fact, what is included in the rule. It is very clearly labeled a substitute to be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. I am not clear whether the gentleman from New York [Mr. LAFALCE] is going to offer this substitute for the gentleman from Illinois [Mr. MICHEL] or whether another person from the other side of the aisle will offer this substitute, but it is certainly the choice of the gentleman from Illinois [Mr. MICHEL] as to whether a member of the other side of the aisle will be able to offer this substitute or not.

Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I rise in strong support of this rule.

Discrimination in America today is unthinkable. It is offensive. It should be a relic of history. This bill should pass this House unanimously.

Discrimination and prejudice, of course, come in many forms, Mr. Speaker, and I hope we will address all of those forms in the remainder of the 101st Congress and, surely, in the 102d Congress.

When a person is denied employment and denied promotion, denied advancement because of color or gender or situation of disability, that is an offense to everything that this country stands for. There are several Members of this House who are disabled and who well could suffer discrimination and prejudice in the private sector. I am one of them.

I am proud to support this bill with its stricture against discrimination on grounds of disability as well as grounds of race and gender.

Equal access to the education system should be an absolute right in this country. When our country funds a Head Start slot, an enriched preschool experience for only 16 or 17 percent of its kids at dire education risk who are on the precipice of education failure, to me that is discrimination and prejudice, and because many of the kids, a disproportionate number of these young people in our society who are at dire education risk who cannot make it when they enter the schoolhouse doors without an enriched preschool experience, because a disproportionate number of them are black and Hispanic, that is a form of prejudice.

If our society does not offer these kids a Head Start experience that we know is their last fair chance of making it in school. And then when they get into school, how do we treat these young people who are noncollege-bound? With nowhere near the care and attention and concern that they get in other industrialized countries of Europe and the Orient.

Once a kid drops out of school, he is blipped off the computer screen, and if he does graduate from school, he has a hunting license to get a job.

Other societies in other developed countries take great care to ease their way from the world of education to the world of work. Teachers in school, vocational education teachers spend time in industry to know what the demands are, and leaders in industry, plant managers and so forth, work in school to bring them up to scratch on the kinds of skills that industry demands.

If we fail to do that, we are failing to give our kids an equal education, equal to the job of employing them.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I noticed that in the course of 25 years since he joined us in 1965 to help legislate that very famous bill that his fervor and commitment to human and civil rights is as undiminished as it was a quarter century ago. I thank the gentleman for yielding.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman. I could think of no finer tribute, no finer way to end my remarks.

Let us take a holistic comprehensive view of what equal access, equal opportunity is in our society. Of course, it is the elimination of prejudice. It is also the provision of real opportunity, real education, real job training, real access to college.

Harry Truman's Commission on Higher Education in 1947 told us that we ought to add 2 years to assure the years of education, add 2 years of college. But for the past 10 years these two administrations have turned grants and scholarships into loans. That is prejudicial and discriminatory to the rights of low-income Americans to have access to higher education.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois [Mrs. MARTIN], a distinguished member of the Committee on Rules.

Mrs. MARTIN of Illinois. Mr. Speaker, I would appeal to House Democrats, the self-proclaimed party of Jefferson, to either begin to live up to that reputation or drop the pretense altogether. This gag rule, on a civil rights bill of all things, does not do your party or this House proud.

Pick up your Jefferson's Manual of Parliamentary Practice. In the very first section, entitled, "Importance of Adhering to Rules," Jefferson says that while the majority, by their numbers, can always stop improper measures proposed by their opponents, the only weapons the minority has to defend itself against similar attempts from those in power are the forms and rules of proceeding which have been adopted. And it is only by a strict adherence to those rules that the weaker party can be protected "from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but to often apt to suggest to large and successful majorities."

And Jefferson went on to say that it is more important to have a rule to go by than what that rule says, so that "there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the Members." And he concludes, "It is very material that order, decency, and regularity be preserved in a dignified public body."

Oh how far you have strayed from Jefferson's idea of uniform and orderly rules of proceeding. And how far we have come in 200 years from his idea of a Congress characterized by free and open debate and deliberations on amendments. This Congress has already set an all-time record for restrictive rules, that is, rules like this one which severely limit the right of Members to offer amendments. As of today, 52 percent of our rules in this 101st Congress have been restrictive, compared with 46 percent in the last Congress and just 15 percent back in the 95th Congress. Only three amendments are permitted by this rule—two of which are controlled by the two committee chairmen of jurisdiction. What have we come to?

And to add insult to injury, the Democrats have once again prohibited the minority party from offering a motion to recommit of its choosing—a prerogative that has clearly been ours for the better part of this century.

Mr. Speaker, when the majority perverts the Jeffersonian concept of rules as a uniformity of proceeding and instead twists them into constantly changing devices by which to thwart the rights of the minorities within this House, then we have indeed lost our moorings and set our democracy afloat in dangerous waters.

Let us hope that when we are talking about a civil rights bill, of all things, the scales will fall from your eyes and you will see just how you are depriving the people's representatives in this House of their basic right to legislate for the good of the Nation. Vote down this anti-civil-rights rule.

I, at this point, insert tables on restrictive rules and on restricting motions to recommit.

OPEN VERSUS RESTRICTIVE RULES, 95TH–101ST CONGRESSES

Congress (years)	Total rules granted [1]	Open rules [2]		Restrictive rules [3]	
		No.	Percent	No.	Percent
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	79	38	48	41	52

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th-99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.

Sources: Rules Committee Calendars & Surveys of Activities, 95th–100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of Aug. 1, 1990.

Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

RULES GRANTED IN THE 101ST CONGRESS

[Providing for the initial consideration of legislation]

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
108	Mar. 14, 1989	MO	H.R. 1231: Emergency Strike Board.
111	Mar. 21, 1989	O	H.R. 1369: Mansfield Business Center.
112	Mar. 21, 1989	MC	H.R. 2: Minimum Wage.
117	Apr. 4, 1989	O	H.R. 18: Uniform Voting Time.
126	Apr. 11, 1989	MO	H.R. 1487: State Dept. Authorization.
127	Apr. 12, 1989	C	H.R. 1750: Contra Aid.
135	Apr. 25, 1989	O	H.R. 2072: Supplemental Appropriations.
138	Apr. 25, 1989	O	H.R. 1486: Maritime Adm. Authorization.
143	May. 2, 1989	O	H.R. 7: Voc. Ed. Act Extension.

RULES GRANTED IN THE 101ST CONGRESS—Continued

[Providing for the initial consideration of legislation]

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
145	May. 2, 1989	MC	H. Con. Res. 106: Budget Resolution.
155	May. 16, 1989	O	H.R. 643: Oil Shale Claims.
160	May. 23, 1989	C	H.R. 2442: SDI for Drugs Transfer.
161	May. 23, 1989	O	H.R. H.R. 2392: Oil Shale Claims.
165	June 1, 1989	MC	S.J. Res. 113: FSX Agreement.
173	June 13, 1989	MC	H.R. 1278: Financial Institutions Reform.
179	June 20, 1989	MO	H.R. 2655: Foreign Aid Authorization.
195	July 11, 1989	O	H.R. 2022: Soviet and Indochinese Refugees.
196	July 11, 1989	O	H.R. 989: Tongass Timber Reform Act.
198	July 13, 1989	O	H.R. 1549: NRC Authorization.
199	July 13, 1989	O	H.R. 1484: Park System Review Board.
200	July 13, 1989	O	H.R. 828: BLM Authorization.
202	July 17, 1989	O	H.R. 1056: Federal Waste Disposal.
211	July 21, 1989	MO	H.R. 2461: DoD Authorization.
217	July 28, 1989	C	H.R. 3024: Debt Limit Increase.
224	Aug. 4, 1989	O	H.R. 1668: NOAA-Coastal Authorization.
228	Aug. 4, 1989	C	H.R. 1594: MFN Status for Hungary.
230	Aug. 4, 1989	O	H.R. 2427: NOAA-Satellite Authorization.
234	Sept. 7, 1989	O	H.R. 1759: NASA Authorization.
235	Sept. 7, 1989	O	H.R. 2869: Commodity Futures Improvements.
236	Sept. 7, 1989	O	H.R. 1659: Aviation Security Act.
245	Sept. 21, 1989		H.R. 3299: Budget Reconciliation.
249	Sept. 26, 1989	MC	
246	Sept. 25, 1989	C	H.J. Res. 407: Continuing Appropriations.
254	Oct. 3, 1989	O	H.R. 2748: Intelligence Authorization.
255	Oct. 3, 1989	O	H.R. 1495: Arms Control Authorization.
256	Oct. 3, 1989	C	H.R. 3385: Nicaragua Election Assistance.
266	Oct. 17, 1989	O	H.R. 3402: Polish/Hungarian Initiative.
267	Oct. 17, 1989	O	H.R. 2494: International Development.
270	Oct. 19, 1989	O	H.R. 2459: Coast Guard Authorization.
271	Oct. 23, 1989	MC	H.J. Res. 423: Continuing Appropriations.
273	Oct. 24, 1989	C	H.R. 45: Central American Studies.
275	Oct. 26, 1989	O	H.R. 3443: Airline Acquisition Review.
277	Oct. 31, 1989	O	H.R. 1465: Oil Spill Liability.
278	Oct. 31, 1989	C	H.R. 2710: Minimum Wage.
289	Nov. 13, 1989	O	S. 974: Nevada Wilderness.
290	Nov. 15, 1989	C	H.R. 3660: Ethics Reform Act.
295	Nov. 19, 1989	MC	H.R. 3743: Foreign Assistance Approps.
309	Jan. 30, 1990	MC	H.R. 2190: Voter Registration Act.
338	Feb. 20, 1990	O	H.R. 2570: Arizona Wilderness Act.
355	Mar. 7, 1990	MO	H.R. 3581: Rural Economic Development.
360	Mar. 20, 1990	O	H.R. 644: Wild and Scenic Rivers Amends.
364	Mar. 22, 1990	MC	H.R. 3847: Dept. of Environ. Protect.
366	Mar. 27, 1990	O	H.R. 1463: Capital Metrorail System.
368	Mar. 28, 1990	MC	H.R. 3: Childhood Ed. and Develop.
372	Apr. 3, 1990	O	H.R. 2015: Economic Development Act.
373	Apr. 3, 1990	O	H.R. 1236: Price Fixing Prevention.
378	Apr. 18, 1990	O	H.R. 3848: Money Laundering Amendments.
379	Apr. 18, 1990	O	H.R. 4380: Super Collider Authorization.
382	Apr. 25, 1990	MC	H. Con. Res. 310: Budget Resolution.
388	May 9, 1990	MC	H.R. 770: Family and Medical Leave Act.
392	May 15, 1990	O	H.R. 4151: Human Services Authorization.
394	May 16, 1990	MC	H.R. 2273: Americans with Disabilities.
395	May 16, 1990	MC	H.R. 4636: Supp. Foreign Aid Authoriz.
399	May 22, 1990	MC	H.R. 3030: Clean Air Act Amendments.
403	May 24, 1990	MO	H.R. 4653: Export Administration Act.
408	June 6, 1990	MO	H.R. 4785: AIDS Authorization.
409	June 7, 1990	MO	H.R. 2567: Reclamation Authorization.
410	June 7, 1990	O	S. 280: Niobrara Scenic River.
417	June 20, 1990	C	H.R. 350: Flag Amendment. H.R. 5091: Flag Statute.
422	June 26, 1990	O	H.R. 4329: Technology Preeminence.
425	June 26, 1990	MC	H.R. 5114: Foreign Ops. Approps.

RULES GRANTED IN THE 101ST CONGRESS—Continued

[Providing for the initial consideration of legislation]

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
428	July 10, 1990	O	H.R. 5170: Aviation Safety Act.
430	July 11, 1990	MO	H.R. 5115: Education Excellence Act.
433	July 13, 1990	C	H.R. 5258: Balanced Budget Act.
434	July 13, 1990	MC	H.R. H.J. Res. 268: Balanced Budget Constitutional Amendment.
435	July 13, 1990	O	H.R. 1180: Omnibus Housing Act.
439	July 20, 1990	MO	H.R. 3950: Agriculture Authorization.
443	July 30, 1990	MC	H.R. 5355: Public Debt Limit Increase.
448	Aug. 1, 1990	MC	H.R. 5350: Temporary Debt Increase.
449	Aug. 1, 1990	MC	H.R. 4000: Civil Rights Act.

Code: A completely open amendment process is provided by an open rule (O). Restrictive rules are those which provide for less than a completely open amendment process and include: closed rules (C), modified closed rules (MC), and modified open rules (MO).

RULES RESTRICTING THE MINORITY'S RIGHT TO OFFER MOTIONS TO RECOMMIT WITH INSTRUCTIONS

Congress	Total rules granted [1]	Rules restricting instructions [2]	As percent of total rules
95th	241	0	0
96th	198	1	0.5
97th	112	0	0
98th	145	0	0
99th	101	12	12
100th	138	18	13
101st	79	11	14

[1] Only rules providing for the initial consideration of legislation are included and not rules providing for the consideration of conference reports, Senate amendments to a House bill, or appropriations rules which only provide waivers and do not affect the amendment process.

[2] Rules which restrict the right to offer motions to recommit with instructions include those which deny instructions or which in any way limit the right to offer an amendment in recommital instructions.

Sources: Legislation Calendars, Committee on Rules, 95th–100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of August 1, 1990.

Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

RULES WHICH RESTRICT RECOMMITTAL INSTRUCTIONS, 101ST CONGRESS

Rule No. H. Res.	Date granted	Bill No.	Subject
108	Mar. 14, 1989	H.R. 1231	Emergency Strike Board.
111	Mar. 21, 1989	H.R. 2	Minimum Wage.
160	May 23, 1989	H.R. 2442	Drug Appropriations.
179	June 20, 1989	H.R. 2655	Foreign Aid Authorization.
256	Oct. 3, 1989	H.R. 3385	Nicaragua Appropriations.
364	Mar. 22, 1989	H.R. 3847	Dept. of Environment.
368	Mar. 28, 1989	H.R. 3	Childcare.
430	July 11, 1990	H.R. 5115	Equity & Excellence in Education.
434	July 13, 1990	H.J. Res. 268	Balanced Budget Amendment.
439	July 20, 1990	H.R. 3950	Food and Ag Resources Act.
449	Aug. 1, 1990	H.R. 4000	Civil Rights Act.

□ 1540

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, it is not my purpose really to speak in detail about the rule. Perhaps the rule could be different. Perhaps it should be different. I expect to vote for it. But the main reason I want to talk today is to share with Members experiences that have come to me in my 42 years here in Congress, and the happiness I have that I have been here at a time when opportunities were made available for many Americans that were not here when I came here.

Mr. Speaker, the first time I ran for office I met with the Ku Klux Klan in my hometown. I made a speech before them, and they told me:,

You have to to join the Ku Klux Klan or you will never get anywhere in politics.

I said:

I cannot do that, because you are against the black race, you are against the Catholics, you are against the Jews. You are against things, and not for the betterment of our country. So I will just take a risk of not being elected.

I was barely elected, but I was elected, and I have never been defeated for office.

As I look back on my 42 years, there is nothing I have greater joy about than the fact that I see an opportunity for Americans today to share in the mainstream of life, much more than they did before. It is still not perfect. There are many things that can be done.

Like in every case I have had an opportunity to vote in this area of thinking, there has always been some intellectual reason why it might be an easy way not to do it or to find some excuse for not doing it, as superficial thing. But the heart of the matter is we are trying to open up all America to all Americans, to make a great country that is composed of all of our constituents.

Mr. Speaker, I therefore heartily approve of this legislation, and I am honored to be a cosponsor of it.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER] a member of the Committee on the Judiciary. The committee in which this legislation originated.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the proposed rule for H.R. 4000. Furthermore, I will object to ordering the previous question, and I ask Members of the House to vote the previous question down so that I may offer an amendment to bring the Congress of the United States under the same coverage and with the same remedies that we are imposing in this bill on every other segment of our society.

Make no mistake about it, the vote on ordering the previous question will be the vote on congressional coverage. A "no" vote means that the Member does not wish to establish a double standard of one set of rules for Congress, and another set of rules for everybody else. A "yes" vote is a vote for the double standard.

Mr. Speaker, I testified before the Committee on Rules to request that the amendments that I offered in the Committee on the Judiciary on con-

gressional coverage be included in the rule so that they could be offered as amendments on H.R. 4000 today. Unfortunately, not only are the amendments that I requested not included in the rule, but the congressional coverage provisions in the Edwards-Hawkins bill is weaker than that contained in the version as reported out of the Committee on the Judiciary.

The bill as reported by the Committee on the Judiciary applied title VII to the entire Congress of the United States, with the means of enforcement to be determined by a rule of each House. That would mean that in a subsequent vote we could include ourselves as Representatives and the operations of the officers and other functions of the House under the same judicial review procedure that would be contained in the statute for everybody else in society.

The Hawkins-Edwards bill applies congressional coverage only to the House, and not to the other body, and calls for enforcement under a House fair employment practices resolution.

Victims of discrimination in the Congress are denied the same protections and remedies as those afforded to all other Americans. This makes the Congress of the United States the last plantation.

Once again we have insulated ourselves from the very laws which we have imposed on the rest of the country. My amendment would have brought the Congress of the United States under the same scope of the legislation as is the private sector of our economy and the executive branch. It would subject Members of Congress who are guilty of unlawful discrimination to the same remedies as are imposed upon other parts of our society. Under H.R. 4000 that means lawsuits, jury trials, punitive damages, and compensatory damages, including that for pain and suffering, as well as for mental distress.

Mr. Speaker, we ought to practice what we preach. We ought to say what is good for everyone else is good for us. My amendment would have eliminated the double standard contained in H.R. 4000.

If the judicial branch can sit in judgment of what the executive branch does, victims of discrimination should be able to have their cases heard on the same basis as everyone else. In good conscience we cannot allow ourselves as an employer of 38,000 employees to exempt itself from the civil rights laws that apply to the rest of the Nation.

Mr. Speaker, I urge a "no" vote on the previous question so that we can offer a substitute rule that does allow for a vote on a congressional coverage amendment. I want us, as Representatives, to stand up and to be counted on whether we ought to bring ourselves in under the same enforcement scheme as we were proposing for everyone else.

If the situation in the executive branch and the private sector of our economy is bad enough to warrant this legislation, subjecting everyone to lawsuits and compensatory and punitive damages, and huge lawyer fees and the potential of quotas, then the same thing ought to apply in the Congress of the United States.

Please vote "no" on the previous question. If the previous question is adopted, then please vote down this rule, and end the hypocrisy of us insulating ourselves from our own laws once and for all this afternoon.

□ 1550

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend from Missouri for yielding me the time.

Mr. Speaker, I rise in support of the rule. I listened with interest to my friend from Wisconsin talking about the problem with congressional coverage, and I share his concern. I do know that as I return to Kentucky and have my town hall meetings, many people feel that we do exempt ourselves from many of these wonderful laws that we apply to everyone else.

However, I would offer, as I did in the committee, my vote to the gentleman's amendment. I offer tonight and today my support to him in future efforts to make sure that Congress is covered by this bill and all other bills. But I do not think that the flaw the gentleman points out is sufficient to defeat this rule, and I would also suggest that that particular amendment could have been made part of the substitute which will be offered later today, and that does indicate that there is a difference of opinion on really both sides of the aisle as to the question of separate branches of government.

Let me take a moment to express my great fondness and admiration to the gentleman from New York who I think is one of the best Members in this entire Congress. While I did not share his view today on the pending resolution and on his amendment, I do think that the gentleman, as chairman of the Small Business Committee of the House, offers a lot of major help to the small business community of the country.

I rise in support of the rule and of the underlying legislation. I am a cosponsor of the original bill. I think it has been improved immeasurably in its travels through the Education and Labor Committee and through our Committee on the Judiciary.

I would refer my colleagues to two parts of the committee report which I think are very well done. On page 19 begins the discussion of the whole question dealing with what we call quotas, and that will be remedied further by an amendment offered later on this afternoon by the gentleman from North Carolina and the gentleman from Texas which I think will further change the bill to the positive.

Then I would refer my colleagues to page 38 of the committee report which discusses the questions of damages. I would remind my colleagues that damages which are available under section 1931, those damages are currently permitted in matters of racial discrimination. They are not now allowed in other forms of discrimination. The bill would permit this.

Only in intentional cases, not unintentional discrimination, and there will be later an amendment offered which will put a cap even on the compensatory and other damage verdicts that would be awarded for intentional acts of discrimination, it does appear to me that where there is clearly intentional wrongdoing, that should be penalized not just by reinstatement, and not just by a measure of coming up to standards, but by a penalty and by punitive action.

So I urge my colleagues, and I realize coming from the mid-South, this is not an easy vote for many of my colleagues, but I think it is a well-crafted bill, and I support the rule and the bill.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CAMPBELL], a member of the Judiciary Committee.

Mr. CAMPBELL of California. Mr. Speaker, I rise in opposition to this rule as one who voted in favor of H.R. 4000 and proudly so. I am proud to have supported the civil rights bill in committee and intend to vote in favor of it when it comes to a vote here.

I also intend to vote for the compromise offered by my friend and esteemed colleague, the gentleman from New York [Mr. LAFALCE]. Therefore, I expect to be in something of a minority on my side of the aisle. But for that reason, perhaps Members might pay a little more attention to my views.

The reason why this rule is wrong is that this rule takes many different opinions of the Supreme Court and squeezes them into one single vote, yes or no. This bill is different from virtually every other bill we see. The reason is because it was not created by a single event, but by a series of Supreme Court opinions. They all just happened to occur in 1989, and for that reason they happened to be combined in a single bill.

What we should be voting on here are separate issues the American people may feel differently about. Let me put to my colleagues the different issues in this bill.

How should we use statistics in the proof of discrimination cases? It is a very, very complex issue, one that has been the subject of much debate.

Should we allow unlimited damages for a whole new category of cases?

What about the attorneys' fees? Should attorneys' fees always be taken care of first, or should we allow them to be an obstacle to the settlement of cases; and what about the right of somebody to challenge a decree once it has been entered?

I suggest these are each important and separate issues. I would like to vote yes on some, no on others, and express my conscience as best I can on each very, very difficult issue. But I am not permitted to do so. I am permitted one vote, up or down, with two amendments that were not presented in the Judiciary Committee as possible alternatives. This to me is why this rule should be defeated.

There is another reason why this rule should be defeated, and that is because of the unfairness it does to one of the most courageous men I know in the U.S. House of Representatives, the gentleman from New York [Mr. LAFALCE]. It take courage to stand up to the leaders of your own party. It takes courage to put your career on the line and say I am doing this because it is right, because it is what I believe is good for the United States. JOHN LAFALCE does not deserve the treatment he has been given. JOHN LAFALCE deserves the honor to have his name attached to his amendment.

In conclusion, I wish to say that this debate has not, to my sadness, been characterized by a great degree of enlightenment. There has been overstatement on both sides. There has been overstatement by some who say vote against this bill, it is a quota bill. There are some who say if you do not vote exactly H.R. 4000 as it came out of the Judiciary Committee you are not for civil rights. Neither statement is true. The truth is somewhere in between for many of us, and we should allow this rule to be defeated so that the truth as each of us sees it can be manifest.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California, a colleague who supported the vote for the civil rights bill in the Judiciary Committee.

I just wanted to point out that the name of the gentleman from New York [Mr. LAFALCE] has been mentioned several times during the debate on the rule. I was with him yesterday evening when he asked that his name be removed from the substitute. That is all I wanted, was to correct the impression that the gentleman from New York [Mr. LAFALCE] is the author of the substitute.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to my colleague, the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, apparently my name has been and will be used quite often in the course of this debate, and I regret that deeply.

Let me try to simply stick to the facts. I attempted to work out a bipartisan compromise. It was my desire to offer a bipartisan compromise. It became clear that a rule would not be given which permitted that. It became clear that it would have to be a Republican substitute.

I did not want to be a party to a substitute that was known as a Republican substitute. I did not want to be a designee of the Republicans. I wished at all times to be nonpartisan. That still is my wish, to be nonpartisan.

Mr. CAMPBELL of California. Reclaiming my time. I conclude with this remark: It is a shame, and for this reason if for no other the rule should be defeated, that a Member of this body who has worked so hard to craft a bipartisan compromise in the interests of this Nation is cast in the position that he must assume the name of a party with which he is not affiliated to present his amendment. I would find that offensive if I was forced to do it on my side.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, I would ask the gentleman, do you remember a couple of weeks ago when the Democrats had to yield some time to you because nobody in your party would? Have you forgotten that?

Mr. CAMPBELL of California. I do not actually believe or see how that is pertinent particularly to the debate.

Mr. WASHINGTON. The gentleman suggested somehow some egregious harm was done to this man. Does the gentleman remember when we were talking about the flag bill and he could not get any time over there and came over here and got time?

Mr. CAMPBELL of California. No, I do not recall that happening. In fact, I am quite sure it did not happen. So I find it interesting. Perhaps the gentleman has mixed me up with another Member. And I do not believe the issue of yielding time is the same issue as letting a courageous Member represent his views on the floor.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

□ 1600

Mr. DYMALLY. Mr. Speaker, it was not my intention to speak on the rule. I had hoped to make a few observations in general debate. But my friend from California, for whom I have such great respect, really disappointed me when he came here and asked for a vote against this rule. The substitute, which is going to be carried by Mr. MICHEL, embodies all of the amendments they would have wanted to offer on the floor. So it is not a closed rule in that sense. It was open for Members to include it in the substitute.

The other point is this: A bill in which one Democrat unilaterally decides to join with the Republicans is not a bipartisan bill. A bipartisan bill comes out of a collective thought of Democrats and Republicans. Only one Democrat identified himself in a bipartisan manner.

So one cannot call this unilateral action a bipartisan effort. It is a Republican substitute. It came from the White House and the Department of Justice.

The gentleman from New York was not carrying a bipartisan bill; he was carrying a Republican substitute.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DYMALLY. Let me yield to my friend from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me briefly just say that there was a "Dear Colleague" letter circulated by about 15 good Democrats in support of the LaFalce substitute. But that is not my point.

My point is that as a second ranking member on the Committee on Rules I offered an amendment for Mr. CAMPBELL, for Mr. MILLER, for Mr. SENENBRENNER and an awful lot of other Members to make their amendments in order so they could be debated. These are people who are knowledgeable, people who are members of the originating committee. They were denied. That is what is unfair about the rule.

I respect the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from California [Mr. DYMALLY] said all of the Republican amendments were folded into the Michel-LaFalce substitute. That is not true. My congressional coverage amendment has not been folded either into H.R. 4000 or into the Michel-LaFalce amendment.

That is why I am seeking a defeat of the previous question so that we can get a vote on subjecting ourselves to the same laws that we are imposing on the rest of society. The Committee on Rules turned me down flat on that.

The Michel-LaFalce substitute does not contain the appropriate enforcement mechanism for Members of Con-

gress that we are imposing upon other segments of society either through Michel-LaFalce or through H.R. 4000.

That is why I think it would be only fair to vote down the previous question in order for us to get a vote on whether to end this hypocrisy.

Mr. SOLOMON. If the gentleman would yield to me, I would point out also that I offered a separate motion in the committee, as my good friend, the gentleman from Missouri [Mr. WHEAT], also knows, to make in order the Sensenbrenner amendment, which would have brought Congress under this legislation. That was defeated on a party-line vote.

Mr. WHEAT. Mr. Speaker, might I inquire how much time is remaining on both sides of the aisle?

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] has 13 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 10 minutes remaining.

Mr. WHEAT. Mr. Speaker, I yield 6 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to take the well for the purpose of entering into a colloquy with the gentleman from Missouri, who is representing the position of the Committee on Rules regarding this particular rule.

I would preface those remarks by indicating, I think, as was previously stated by the gentleman from Texas, that Mr. LAFALCE of New York has made it explicitly clear that he is, as he has always been, a free thinker, that no one motivates him to do what he does not want to do and that he is not and will not be the designee of this subsitute amendment.

Now, I do not know how much we can underscore that, but that is the essence of what he said.

May I ask the gentleman from Missouri a couple of points just so that this Member might have some clarity?

There has been a great deal of discussion about this being a restrictive rule. I sat and listened to this debate.

As I understand restrictive, it is applicable in many instances. But would not it be the case that if the Committee on Rules did not accept the 300 rules that were being offered by 300 Members and chose perhaps only to accept 299, could not that rule be then termed also a restrictive rule?

Mr. WHEAT. If the gentleman will yield, the gentleman is correct. It would not be termed "could be called a restrictive rule," that in fact technically would be a restrictive rule. Any rule that is anything other than a completely open rule that allows all germane amendments is in fact a restrictive rule.

Mr. MFUME. So then a restrictive rule is not the exception to the rule, it is basically the norm.

Mr. WHEAT. It is not unusual in the House at all. There are scholars of this institution who suggest this body could not effectively and efficiently operate without the right to have restrictive rules.

One prime example would be to examine the operations of the other body for a clear example.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman in the well. Would he yield?

Mr. MFUME. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would point out the gentleman is making a finite point. The point is well taken. But there is one point that he has forgotten, and that is the motion to recommit with instructions. That has been by tradition the rule of this House since 1913. We are being denied that one. That is a main reason we are complaining.

I thank the gentleman for yielding.

Mr. MFUME. Mr. Speaker, if I could reclaim my time, let me pursue this a bit further with the distinguished gentleman from Missouri, if I might.

Is it not true that the Committee on Rules, recognizing there was a substantial amount of disagreement on the other side of the aisle to some of the provisions in this bill, taking that into consideration, did not the Committee on Rules then allow for those who had points of controversy or opposition to have the time and the ability and the wherewithal to craft their own substitute version and to include into that any tenet, any philosophy, any amendment, that they wanted?

Mr. WHEAT. If the gentleman will yield, recognizing the controversy surrounding this bill and around most bills, the Committee on Rules did in fact allow a minority substitute to be offered on this bill.

Of course, neither the Committee on Rules nor any member of the majority party may instruct the minority party what they may or may not include in their substitute.

Mr. MFUME. Let me just, if I might, ask one other question so that this Member is absolutely clear, particularly on the point of congressional coverage, because I think the gentleman raises a good point.

I am someone who believes that that ought to be the case with every particular bill. I am a bit befuddled by the fact that if the gentleman believes so strongly about it and could argue so passionately about it, that why those who sought to craft the substitute chose not to embody in the substitute the basic tenet of congressional coverage. I realize the gentleman from Missouri perhaps does not know that, but I would suspect that most Members in this body do not know it.

Mr. WHEAT. If the gentleman will yield further, I cannot speak for the other side of the aisle as to why they chose not to include the gentleman's amendment in their substitute.

But I would point out to the gentleman that, in fact, congressional coverages are not, in fact, the exact amendment that the gentleman suggests. The congressional coverage is, in fact, included in the bill by the committee. The majority bill does include congressional coverage. If there is a difference as to what that coverage should be, then a perfect opportunity would have been to have that included in the substitute so that they would have it available for debate.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, perhaps the gentleman from Maryland can enlighten the House as to why the congressional coverage contained in the substitute made in order from the Committee on the Judiciary is significantly more restrictive than the bill that was reported out of the committee. The bill that was reported out of the committee applied to the other body, and it gave us a second vote on whether to allow our employees to sue us.

What we are voting on here in the guise of H.R. 4000 does not either.

Mr. MFUME. I think the gentleman raises an interesting point, but I would suggest that the point is better directed to the chairman of the committee who presided over the modification, if, in fact, there was a modification.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the gentleman from the Committee on the Judiciary. Is the gentleman implying that if the Members of Congress were covered, he would support the Civil Rights Restoration Act?

Mr. SENSENBRENNER. I would be much more enthusiastic to vote for it.

Mr. CLAY. Would you support it?

Mr. SENSENBRENNER. Certainly I would be more——

Mr. CLAY. The gentleman is saying that the reason he is opposed to it is because the Congress is not included.

Mr. SENSENBRENNER. Well, I think if you fix up the quotas and the remedies section, you would have my vote very enthusiastically.

Mr. CLAY. Even if the Members of Congress were not covered?

Mr. SENSENBRENNER. With the inclusion of the Members of Congress under the same rules that we apply to——

Mr. MFUME. Reclaiming my time at this point, just to close on my own perception regarding this: With all due respect to the gentleman on the other side of the aisle who are in opposition to this and in opposition to this particular rule, let me suggest that those 100 organizations from across this Nation who have labored day in and day out in a bipartisan fashion regardless of region or philosophy to craft this measure and to bring it before this body, recognize that if an open rule were to take place, that would really open Pandora's box and people who would want to water this down, that that would turn this civil rights bill into a zoo and into a dog-and-pony show. It would be a shame.

That is why I would urge Members of this body to come to the well, speak in favor of this particular rule and then come to the floor and vote in favor of it.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT], a member of the Committee on Education and Labor.

□ 1610

Mr. BARTLETT. Mr. Speaker, I would like to begin by yielding to the gentleman from Missouri [Mr. CLAY] if he would like to answer a question I have. We serve on the Committee on Education and Labor. I wonder if congressional coverage with disparate impact, during trials, punitive and compensatory damages were included in the civil rights bill, would the gentleman from Missouri still support it? And if so, why would he not vote for congressional coverage in the Committee on Education and Labor when I offered it?

Mr. CLAY. Mr. Speaker, I think we have voted for congressional coverage on every bill the gentleman wanted. We just did not support the gentleman's version, but we included the congressional Members.

Mr. BARTLETT. I would suggest, Mr. Speaker, that the facts are entirely different. Congressional coverage is not included for jury trials. It is not included for quotas. It is not included for disparate impact. It is not included for punitive damages or compensatory damages for Congress, but it is included for the rest of the world. I wonder if those were included for Congress, would the gentleman from Missouri still support the civil rights bill?

Mr. CLAY. It is a question of enforcement, a question of who enforces, and separation of power. If we establish an enforcement agency for this body, then in all possibility I would support. I do not want the executive branch enforcing any rules in the House of Representatives. We have seen the abuse over and over again, even when they should not be.

Mr. BARTLETT. If full congressional coverage including the same enforcement for Congress as the rest of society were included in this bill, would the gentleman from Missouri support the bill?

Mr. CLAY. With the proper enforcement agency.

Mr. BARTLETT. With the same enforcement agency?

Mr. CLAY. Does the gentleman believe in separation of powers?

Mr. BARTLETT. I strongly believe in separation of powers, but do not use this to allow to discriminate in employment. I repeat my question: If full congressional coverage as proposed by the gentleman from Wisconsin [Mr. SENSENBRENNER] were included in this bill, would the gentleman still support the bill?

Mr. CLAY. The answer to that question is that is not the only possible way of eliminating the discrimination in this House.

Mr. BARTLETT. I note that if the gentleman from Missouri would reach that conclusion later in the debate we might want to share with Members if he would support the bill with full congressional coverage.

Mr. CLAY. I will ask the gentleman the same question I asked the gentleman from Wisconsin [Mr. SENSENBRENNER]: If congressional employees were covered, would the gentleman support the bill?

Mr. BARTLETT. I will give the same answer: It would make me feel better because then Members of Congress would understand what disparate impact, jury trials, punitive damages, and compensatory damages would bring to the rest of the society.

Mr. Speaker, I yield to the gentleman from Texas [Mr. WASHINGTON], who did support congressional coverage in the committee, and I thank the gentleman for his support.

Mr. WASHINGTON. Mr. Speaker, I was going to suggest to the gentleman that I voted for that amendment in the Committee on Education and Labor, and voted against it in the Committee on the Judiciary. Unequivocally, I would vote for the bill with congressional coverage, no ifs, ands, or buts, but the problem I have is that the gentleman from Wisconsin [Mr. SENSENBRENNER] will not be forthcoming and say, "Yes, I will vote with congressional coverage."

Mr. BARTLETT. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas for his candor and his openness and his continued support for congressional coverage.

There are a couple of brief comments I would like to make. First, we just passed the housing bill, and the housing bill was brought to this floor 700 pages long, with the first open rule of a major authorization this session. Under that completely open rule, allowing a full and complete debate on all the issues, the House acted in an orderly manner, one day plus a morning of debate, all rules were made in order, the House in an orderly manner considered all the subjects, considered the areas, accepted some amendments, rejected some other amendments, and it was done most orderly. We can do the same thing on the civil rights bill since, it seems to me, a civil rights bill such as this, designed to last for 100 years ought to be completely and fully debated and not debated under a closed rule.

Second, I have to say that the Members on the other side of the aisle, the Democrats in this body, should be absolutely offended by this rule. The fact is that the gentleman from Illinois [Mr. MICHEL] cannot ask for a substitute. He did not prepare a substitute. He did not offer a substitute. He did not ask to offer a substitute. A Democrat asked for a substitute. He prepared it. He has been working on it for 6 months. He is the chairman of the committee. The gentleman from New York [Mr. LAFALCE] has asked for a substitute, but it is Mr. LAFALCE who was denied the opportunity to offer a substitute.

Somehow there is this figleaf, there is this imagination, somehow there is this trick in which perhaps the Committee on Rules thinks the American public will be fooled if we call the LaFalce substitute the Michel substitute or the Washington substitute or the Natcher substitute or the Solomon substitute, if it is still the LaFalce substitute. Mr. LAFALCE prepared it, it is a far better approach to civil rights than anything else before Members. I urge a no vote on the rule.

Mr. WHEAT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in strong support of this legislation and I think it's important to make note of why it is necessary.

Our Declaration of Independence clearly sets forth our objective here today, that all men, and by that we mean all people, are created equal. For the past 100 years, we had been making steady progress toward eliminating discriminatory practices.

Until last year that is when our progress was threatened by a Supreme Court out of touch with the mainstream of American thinking on this issue. What we want to accomplish today is to restore the degree of civil rights protection provided by the 1866 and 1964 acts. We are reestablishing standards which were in place in this country from 1971 until last year. Employers were not forced to use quotas during that time and the language conforms exactly to the wording of

the 1989 Supreme Court decision on Griggs.

Concerns that this bill will require quotas are completely off base. Some of us remember the horrors which were supposed to follow the Grove City legislation. As I recall, churches were going to be forced to hire a practicing active gay drug user with aids to work in a day care center. Well, it appears that those concerns were a bit far fetched and I think many that we're hearing today are equally off the mark.

In our form of government, the majority may rule, but the rights of the minority are to be protected.

I am confident that the detractors of H.R. 4000 will see that legislation to reestablish our statutes against discrimination in employment is a necessary and just remedy to problems which do exist and which must be addressed.

I think what we need is a healthy dose of "can do" instead of a lot of specious arguments about why we can't act to fulfill this country's destiny. With that kind of thinking, many of us would not be here in this Chamber today. Much of what I'm hearing reminds me very much of the arguments used against giving women the right to vote. The irony, of course, is that women are now the majority and we have political consultants scrambling to capture the women's vote.

If history, and I might add the Bible, teaches us anything, it teaches us that we will reap what we sow. Throughout the world, we are seeing people react to oppression. We are seeing those who have been out of power take to the streets and demand they be accorded what we recognize as their unalienable rights.

Isn't it easier, and in line with our religious values, to be fair at the outset—to treat others the way we would be treated. To evaluate them on their abilities not on their race or sex or religion? Much of the world's troubles could have been avoided if each leader had only done so.

The people this legislation ensures justice for will be key players in America's future. Between now and the next century, 91 percent of the net growth in America's work force will be minorities and women. If America is to hold onto a competitive place in the world economy, we need to be encouraging them to reach their full potential—not reversing 100 years of progress.

Let me repeat again for some of those who have received imcomplete information on this bill. We are reestablishing standards which have been in place for many years. Employers will still be able to set requirements for employees as long as those standards are required by business necessity. And we are making it very clear that there is no quota requirement.

Discrimination has no place in American society. This bill is a just remedy to problems which must be addressed.

□ 1620

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, most of us are familiar with George Orwell's book, "1984," but not many are as familiar with the tragedy of "Brave New World," penned by Aldous Huxley in 1932. Huxley's sage described a totalitarian state where the word "mother" is an obscenity and a pornographic impropriety. One young man named "Savage" struggles against the state only to lose. On his death bed, in one last emotional appeal, Savage cries out:

I don't want comfort. I want God, I want poetry, I want real danger, I want freedom, I want goodness, I want sin. I want the right to be unhappy.

In that one last line, Huxley's desperate protagonist sums up the struggle between those who want to repeal the fall of man and those who recognize its reality. "I want the right to be unhappy." Freedom is a stake, the freedom to work at your life as you see fit.

The world our liberal friends on the Democratic side seek to bring to us with this bill was described by Frederick Lynch of California State University at Los Angeles. Describing his attempts to find a university teaching position, Lynch, a white male observed:

Once, for example, I was informed by a plainly discomfited chairman that I had lost a position at Sweet Briar College strictly because I was male. On another occasion the department chairman at Ponoma College told me that the only sociologist he could hire was a black. On yet a third occasion, Occidental College abruptly cancelled an interview, later notifying me—and several other candidates—that it had hired a female "native of Jamaica."

This nonsense about quotas has to stop because when we begin to hire and promote people on the basis of their race, we are going to bring to our society feelings of distress, feelings of unhappiness, and these emotions will accumulate and ultimately explode and destroy us.

I will say to my colleagues on the left that it is amazing what is going on in America. It was my privilege this week to listen to three persons from the Soviet Union, persons from the State of Russia. They were describing what is happening to child care in that country. Do you know what they are doing? Previously they operated the way your child care did, in that the state would provide the money and run the child care business. That is the way they have done it, and they were offended by that because they were teaching children Leninism in the child care system.

Do you know what they are doing now? They are now changing the ground rules whereby the money will be given to the parents and the parents decide where they want to place their children to be raised, because then they have an opportunity for religious instruction.

This nonsense that there is a benevolent state out there that is going to decide we are all going to be equal at the finish line is a tragedy, and the sooner we divest ourselves of this nonsense, the better off we are all going to be.

This rule should be disavowed. I support the LaFalce amendment. This closed rule is an abomination, a nuisance, and it should be defeated.

In a recent article, columnist Ben Wattenberg noted the ascending importance of the quota issue in American politics. He wrote:

The litmus issue of our judicial moment is quotas . . . If there is one issue that threatens the well-being of our nation, it is race, and that issue is deeply exacerbated by quotas.

Mr. Wattenberg is correct. Because quotas condone the extension of benefits or privileges, or the withholding of them, solely on the basis of race, sex, religion, color or national origin, most Americans find them offensive. Americans, in fact, overwhelmingly support even-handed policies that treat all individuals equally.

Fortunately, President Bush agrees with this assessment. In a Rose Garden ceremony on May 17, 1990, the President outlined the principles which should guide any revision of employment discrimination law:

Civil rights legislation must operate to obliterate consideration of factors such as race, color, religion, sex, or national origin from employment decisions . . . The focus of employers in this country must be on providing equal opportunity for all workers, not on developing strategies to avoid litigation.

Unfortunately, H.R. 4000 sends the very message to American employers that the President wants to avoid—if you want to avoid expensive and protracted litigation, if you want to avoid the uncertainty of jury trials and multimillion dollar punitive damage awards, and if you want to avoid the public stigma that accompanies these sanctions, hire by the numbers. Quotas are the employer's only rationale response to the hostile environment that would be created under H.R. 4000. Quotas, it is clear, are the litmus test of H.R. 4000.

But H.R. 4000 contains a number of fatal flaws.

In sections 3 and 4, the bill would require the defendant-employer to shoulder the burden of proving his innocence in suits alleging disparate impact; in section 5, it would abolish the traditional requirement in Western jurisprudence that a plaintiff establish that the defendant's actions caused the harm in question; in section 6, it would extinguish another traditional precept of the law, that every individual be entitled to seek redress in the courts; in section 7, it would extend the cur-

rent statute of limitations from 6 months to 2 years; in section 8, it would expand the available remedies under title VII to include compensatory and punitive damages, thus guaranteeing that there will be a long line of attorneys waiting to file employment discrimination claims; and, in section 9, it would give the plaintiff's attorney veto authority over proposed settlements if the proposal does not satisfy his request for fees and other remuneration.

The proponents of this legislation argue that employers do not now resort to quotas to meet employment goals. Unfortunately, everyone has heard anecdotal accounts of how employers invidiously implement quota systems. Perhaps the most recent, and illustrative, account is by Frederick R. Lynch of California State University at Los Angeles. Describing his attempts to find a university teaching position in a recent article in Commentary magazine, Lynch, a white male, observed:

Once, for example, I was informed by a plainly discomfited chairman that I had lost a position at Sweet Briar College strictly because I was male. On another occasion the department chairman at Pomona College told me that the only sociologist he could hire was a black. On yet a third occasion, Occidental College abruptly canceled an interview, later notifying me—and several other candidates—that it had hired a female "native of Jamaica."

Reverse discrimination is a very real problem in our society, even without H.R. 4000. H.R. 4000 will only increase the actual incidents of discrimination described by Mr. Lynch.

Finally, while the legislation would establish tough new stardards for private businesses with 15 or more employees, it exempts the Congress from coverage by depriving its 40,000 employees of a meaningful third-party review of congressional employment practices. While there may be legitimate separation of powers concerns in subjecting the Congress to the regulatory whims of the executive branch, congressional employees alleging employment discrimination should, at a minimum, be entitled to appeal decisions rendered by the Office of Fair Employment Practices to the appropriate Federal district court.

Taken together, these provisions represent a radical departure from the traditional purpose of title VII, which seeks to encourage conciliation and negotiation between employer and employee. The above provisions, in my opinion, would multiply the number of frivolous title VII lawsuits and transform our civil rights laws into an elaborate lottery with no real winners.

THE LAFALCE-GOODLING SUBSTITUTE

The LaFalce-Goodling substitute is worthy of our support. Why?

It requires the plaintiff to shoulder a meaningful burden of proof, one that will discourage frivolous lawsuits. Before the burden would shift to an employer, the plaintiff would first have to: First, present evidence—in addition to mere statistical evidence—of a disparate impact; second, link one or more employment practices to that disparate impact; and third, demonstrate that such practice causes or, in the case of two or more practices, that each practice contributes to the disparate impact.

At this point the burden would shift to the employer to show that the practice or practices were required by business necessity. The substitute defines what is required by business necessity to mean:

. . . that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by, even if they do not require, the challenged practice or group of practices.

This language comes directly from the decisions in Griggs and Beazer and also represents an improvement over H.R. 4000. The key point is that the plaintiff must meet a burden of persuasion that is much more in line with the burden traditionally placed on plaintiffs in Western jurisprudence. To satisfy the burden in LaFalce, the plaintiff would have to introduce more than mere statistical evidence of a racial or other imbalance in the work force, and they would have to make this showing with respect to each of the alleged illegimate employment practices. The strengthened definition of business necessity, moreover, eliminates the incentive in H.R. 4000 for plaintiffs—and their attorneys—to bring frivolous lawsuits.

REMEDIES

The substitute would eliminate jury trials and punitive and compensatory damages. Instead, plaintiffs would be allowed to recover up to $100,000 in equitable relief for cases of intentional discrimination under title VII. In order to award equitable relief, the court would have to conclude that the additional remedy is necessary to deter the employer from engaging in further violations of title VII.

MIXED MOTIVE CASES

The substitute, upon close examination, makes a marginal improvement over H.R. 4000, but it still has the effect of overturning the Price Waterhouse decision. It states that a plaintiff may establish an unlawful employment practice whenever an illegitimate consideration is a major contributing factor for any employment practice. Although the substitute enhances the standard in H.R. 4000, it still allows the plaintiff to collect equitable relief even where the employer shows that the same decision would have been reached anyway. This is the weakest part of the substitute.

CHALLENGES TO CONSENT DECREES

Here the substitute is a substantial improvement over H.R. 4000. An individual would be prohibited from challenging a consent decree only if, at the time the settlement was proposed, he first, was employed or an applicant for employment at the entity covered by the decree, second, had actual notice that the settlement was likely to affect his interests, and third, had a reasonable opportunity to challenge the proposed settlement.

CONGRESSIONAL COVERAGE

The substitute contains a meaningless provision applying title VII to the Congress; that is, it leaves it to each House to determine the appropriate means of enforcement. Again, this is a weak provision.

RETROACTIVITY

The substitute contains an excellent provision that makes the bill applicable only to claims arising after the date of enactment.

CONCLUSION

Aside from the language in mixed motive cases—Price Waterhouse—and the lack of any meaningful congressional coverage, this is a real and substantial improvement over H.R. 4000. It also has the support of the business community, such as the chamber of commerce, National Federation of Independent Business, the National Retail Federation, and so on. The civil rights groups, it is important to note, oppose the substitute with a Bork-like vengeance.

I urge my colleagues to support the substitute.

Mr. WHEAT. Mr. Speaker, for the purposes of debate, I yield 30 seconds to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I come to this rule from the other perspective. I think the Rules Committee has been overly generous.

When it comes to the cap, when it comes to the quota issue, it is the Rules Committee that has permitted an alternative amendment. I do not understand the concern over the rule.

Does this bill result in quotas? The answer is no. There is an amendment that is going to be offered that wipes out any semblance of it.

Second, is it retroactive? The answer is no. The rules provide for that. What about punitive damages? There is cap. The Rules Committee has provided an amendment to deal with that.

Mr. Speaker, I do not understand the concern over the rule. I think the majority and the minority have been overly generous in constructing a rule that is fair.

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] has 2 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 2 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, we have heard, and we will hear, many very good speeches on the evils of discrimination. Let their be no question about it, discrimination is evil. It must be eradicated. There is no difference between Republicans and Democrats, liberals and conservatives, on that subject. The debate over this bill is how best to do it and how to do it in a manner that is fair to those who do not discriminate. We are going to be hearing much more about that, too.

However, I think it is quite clear that on the issue of congressional coverage, we cannot hide behind the issue of separation of powers to exempt ourselves from the same law and the same enforcement mechanism that we are imposing upon other segments of the society. If the issue of separation of powers was that critical, why, then,

does this bill proceed to have the judicial branch sit in judgment over the actions of the executive branch? That is just as much a violation of the separation of powers as having the executive branch sit in judgment over the actions of the legislative branch. That is a double standard.

We have to eliminate the double standards, and on the vote that is coming, when I ask Members to vote down the previous question, that will be a vote to eliminate that double standard. I ask Members to vote no on the previous question. Let us have a vote on bringing the Congress under the same coverage and enforcement scheme that everybody else in society is being brought under. Let us not go out and see our constituents during the months of August with a vote for congressional hypocrisy under our belts.

Mr. Speaker, I ask the Members to vote on the previous question. If the previous question is not defeated, then I ask the Members to defeat the rule.

Mr. WHEAT. Mr. Speaker, I yield myself my remaining 2 minutes.

Mr. Speaker, in the time I have remaining I want to apologize to the other side of the aisle. I suggested that congressional coverage was not included in their bill, and it is my understanding now that it is. In fact, congressional coverage was included in both the majority and the minority bills. It is only the coverage offered by the gentleman from Wisconsin that is not included, and it had every opportunity to be included in the minority bill.

I also want to point out very briefly what I have learned over the last few days. We have heard a lot about quotas, and if there is anything I have learned, it is that quotas is no way to determine the fairness of a complicated, sophisticated issue. Then the minority comes in and says that since we have not met our quota of open rules, this is not a fair rule.

We have a majority bill, and we have a majority substitute. We have a majority amendment to this bill on quotas, and we have a minority substitute that was suggested by the gentleman from New York [Mr. FISH]. We have every opportunity for fair and open debate on a major bill that we need to go to the floor on this week, Mr. Speaker.

Mr. Speaker, I yield to the chairman of the committee, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, let me just briefly say that the congressional coverage is included in the bill, and if anyone says it is not, I think that is a poor excuse not to vote for the rule. The congressional coverage that we have included in H.R. 4000 is precisely the congressional coverage that was included in the disability bill that the President himself signed just a week ago. Now it would seem to me that one is inconsistent with the President and in disagreement with the President if one would vote against the rule on this weak excuse and thus prevent not only this congressional coverage to be included in the act but also preclude a discussion on the adoption of a damaging amendment, a strengthening amendment on the subject of quotas.

So it seems to me we have done everything reasonable to give everybody an idea to be included in the proposal, even some bad ideas, in my opinion, but at least they have been included. During the last 6 months every Member has had an opportunity to present their proposals before this House.

The SPEAKER pro tempore. All time has expired.

Mr. DORNAN of California. Mr. Speaker, I rise today in strong opposition to the misnamed Civil Rights Act of 1990. It should really be called the Trial Lawyers Act. This bill does nothing to advance civil rights. In fact, it is diametrically opposed to the original intent of the civil rights movement, in which I am proud to have participated as a young Air Force captain in my off duty hours.

Those of us who marched with Dr. Martin Luther King in Washington in 1963, were not marching for hiring quotas or other racial preferences. We were marching for a colorblind society in which all Americans would be judged by "the content of their character," in Dr. King's words, not the color of their skin. Instead of building on that dream, we are being asked today to embrace a bill that reinforces one of America's oldest and ugliest racial myths, that whites are superior to blacks. In that respect, it can truly be said that passing this legislation will be turning the clock back. How ironic.

In the popular 1970's novel "Love Story," Eric Seagal wrote that "Love is never having to say you're sorry." I do not know if that is true for love, Mr. Speaker, but it is sure true for being a liberal. I am convinced that an integral part of being a liberal is never saying you're sorry, never admitting that any Great Society program failed. That is why I have spent so many years here looking for an honest liberal. But alas, I have come up emptyhanded.

Any honest liberal would have to admit that affirmative action has been a dismal failure. Now this in no way impugns the motives of those who pushed affirmative action. They were prepared to sacrifice an important principle, that of equal justice, to produce a social good, a growing middle-class black establishment. They felt that such a tradeoff was justified and well worth the price. They were wrong.

Instead of advancing the cause of blacks, affirmative action has hurt the cause of blacks. Why? Because racial preference implies inferiority. And this implied inferiority actually aggravates the white racism affirmative action was designed to eradicate. That is why there has been an increase in racial incidents, for instance on college campuses, around the country.

Affirmative action also produces self-doubt in the minds of black people. Let me quote Charles Krauthammer on this.

This self doubt is rooted in what black writers Jeff Howard and Ray Hammond call "rumors of inferiority." Affirmative action advertises and amplifies the rumor. In trying to cure the effects of racism, it perpetuates racist myths by making any successful black carry the stamp "Preferred, Thus Presumed Inferior." No one asks but everyone thinks: Did that black professor/pilot/executive make it on merit or on race?

The bill would also create divisiveness because it is rooted in the paradoxical notion that the way to lessen racial tensions is to encourage as many lawsuits as possible. Does anyone here believe this? I hope not. Litigation by its nature is bitter and divisive. Litigation exaggerates differences and forces people to take extreme positions. The high pressure atmosphere of the courtroom further contributes to this extremism.

The major fault with this bill, Mr. Speaker, is that, despite protestations to the contrary, it is a quota bill. There is no denying this. The bill's mechanics would drive the system toward that end, whether or not that is the goal of its authors. Further, the bill creates a presumption of an employers guilt. An employer who is sued under the provisions of this bill will be guilty of discrimination unless he can explain the existence of any "disparte impact" in hiring by race and sex. He must prove that employment practices must have a "substantial and demonstrable relationship to effective job performance," whatever that means.

We all know what the result will be, Mr. Chairman. Businesses fearing lawsuits will act to avoid them by turning to a quota system. And a quota system, like any affirmative action scheme, will chip away at the good things the civil rights movement accomplished, as I mentioned earlier.

It is also embarrassing, Mr. Speaker, that the Congress has seen fit to exempt itself from the bill's coverage. My liberal colleagues are constantly reminding us that "no one is above the law." Yet Congress consistently puts itself above the law by exempting itself from the law. The American people, rightly enough, don't understand this regal attitude with which we conduct our affairs. I don't understand it either. And this exemption alone is enough to oppose this bill.

The Congress, Mr. Speaker, has given up its responsibility to craft clear and decisive laws. Instead, we write vague and foggy legislation and leave it up to the courts to decide what we mean. This cowardly approach to lawmaking is an abuse of the trust of the American people.

In closing Mr. Speaker, let me quote George Will who writes,

• • • this year's bill mocks the core tenet of what once was the civil rights movement. That tenet is: rights inhere in individuals

and do not derive from membership in government-favored minority groups.

That says it all, Mr. Speaker.

Now a "no" vote on the bill is bound to be politically unpopular because the civil rights industry, it is no longer a movement but an industry, will demagog the issue. But I hope that my colleagues are made of sterner stuff and will stick to the core tenet of the old civil rights movement that I was proudly a part of and which was expressed so clearly by George Will.

Let us face it, the problems of the black community will not be helped, and in fact will be hurt, by enacting this bill. Further, it is time to decide whether we are interested in a colorblind society, or a racial spoils system. I therefore urge a "no" vote on Kennedy-Hawkins and a "yes" vote on the LaFalce-Republican substitute. And therefore I also urge a "no" vote on this restrictive rule.

Mr. WHEAT. Mr. Speaker, having no further requests for time, I urge my colleagues to support this vitally important rule so that we may proceed to debate and discussion of the 1990 Civil Rights Act.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. Sikorski) The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 171, answered "present" 2, not voting 12, as follows:

[Roll No. 304]

YEAS—247

Ackerman	Cardin	Edwards (CA)
Alexander	Carper	Engel
Anderson	Carr	English
Andrews	Chapman	Erdreich
Annunzio	Clarke	Espy
Anthony	Clay	Evans
Applegate	Clement	Fascell
Aspin	Coleman (TX)	Fazio
Atkins	Collins	Feighan
AuCoin	Condit	Flake
Barnard	Conyers	Flippo
Bates	Cooper	Foglietta
Beilenson	Costello	Frank
Bennett	Coyne	Frost
Berman	Crockett	Gaydos
Bevill	Darden	Gejdenson
Bilbray	de la Garza	Geren
Boggs	DeFazio	Gibbons
Bonior	Dellums	Glickman
Borski	Derrick	Gonzalez
Bosco	Dicks	Gordon
Boucher	Dingell	Gray
Boxer	Dixon	Guarini
Brennan	Donnelly	Hamilton
Brooks	Dorgan (ND)	Harris
Browder	Downey	Hatcher
Brown (CA)	Durbin	Hawkins
Bruce	Dwyer	Hayes (IL)
Bryant	Dymally	Hayes (LA)
Bustamante	Dyson	Hefner
Byron	Early	Hertel
Campbell (CO)	Eckart	Hoagland
Hochbrueckner	Mollohan	Schumer
Hoyer	Montgomery	Sharp
Hubbard	Moody	Sikorski
Huckaby	Morella	Sisisky
Hughes	Morrison (CT)	Skaggs
Hutto	Mrazek	Skelton
Jacobs	Murphy	Slattery
Jenkins	Murtha	Slaughter (NY)
Johnson (SD)	Nagle	Smith (FL)
Johnston	Natcher	Smith (IA)
Jones (GA)	Neal (MA)	Solarz
Jones (NC)	Neal (NC)	Spratt
Jontz	Nowak	Staggers
Kanjorski	Oakar	Stallings
Kaptur	Oberstar	Stark
Kastenmeier	Obey	Stokes
Kennedy	Olin	Studds
Kennelly	Ortiz	Swift
Kildee	Owens (NY)	Synar
Kleczka	Owens (UT)	Tallon
Kolter	Pallone	Tanner
Kostmayer	Panetta	Tauzin
Lancaster	Parker	Taylor
Lantos	Patterson	Thomas (GA)
Laughlin	Payne (NJ)	Torres
Leach (IA)	Payne (VA)	Torricelli
Lehman (CA)	Pease	Towns
Lehman (FL)	Pelosi	Traficant
Levin (MI)	Penny	Traxler
Levine (CA)	Perkins	Udall
Lewis (GA)	Pickett	Unsoeld
Lipinski	Pickle	Valentine
Lloyd	Poshard	Vento
Long	Price	Visclosky
Lowey (NY)	Rahall	Volkmer
Manton	Rangel	Walgren
Markey	Ray	Washington
Martinez	Richardson	Watkins
Matsui	Roe	Waxman
Mavroules	Rose	Weiss
Mazzoli	Rostenkowski	Wheat
McCloskey	Rowland (GA)	Whitten
McCurdy	Roybal	Williams
McDermott	Russo	Wilson
McHugh	Sabo	Wise
McMillen (MD)	Sangmeister	Wolpe
McNulty	Sarpalius	Wyden
Mfume	Savage	Yates
Miller (CA)	Sawyer	Yatron
Mineta	Scheuer	
Moakley	Schroeder	

NAYS—171

Archer	Fish	Lukens, Donald
Armey	Frenzel	Machtley
Baker	Gallegly	Madigan
Ballenger	Gallo	Marlenee
Bartlett	Gekas	Martin (IL)
Barton	Gillmor	Martin (NY)
Bateman	Gilman	McCandless
Bentley	Gingrich	McCollum
Bereuter	Goodling	McCrery
Bliley	Goss	McDade
Boehlert	Gradison	McEwen
Broomfield	Grandy	McGrath
Brown (CO)	Grant	McMillan (NC)
Buechner	Green	Meyers
Bunning	Gunderson	Michel
Burton	Hammerschmidt	Miller (OH)
Callahan	Hancock	Miller (WA)
Campbell (CA)	Hansen	Molinari
Chandler	Hastert	Moorhead
Clinger	Hefley	Morrison (WA)
Coble	Henry	Myers
Coleman (MO)	Herger	Nielson
Combest	Hiler	Oxley
Conte	Holloway	Packard
Coughlin	Hopkins	Parris
Courter	Horton	Pashayan
Cox	Houghton	Paxon
Craig	Hyde	Petri
Crane	Inhofe	Porter
Dannemeyer	Ireland	Pursell
Davis	James	Quillen
DeLay	Johnson (CT)	Ravenel
DeWine	Kasich	Regula
Dickinson	Kolbe	Rhodes
Dornan (CA)	Kyl	Ridge
Douglas	Lagomarsino	Rinaldo
Dreier	Lent	Ritter
Duncan	Lewis (CA)	Roberts
Edwards (OK)	Lewis (FL)	Rogers
Emerson	Lightfoot	Rohrabacher
Fawell	Livingston	Ros-Lehtinen
Fields	Lowery (CA)	Roth
Roukema	Smith (NE)	Sundquist
Rowland (CT)	Smith (NJ)	Tauke
Saiki	Smith (TX)	Thomas (CA)
Saxton	Smith (VT)	Thomas (WY)
Schaefer	Smith, Denny (OR)	Upton
Schiff	Smith, Robert (NH)	Vander Jagt
Schneider	Smith, Robert (OR)	Vucanovich
Schuette	Snowe	Walker
Schulze	Solomon	Walsh
Sensenbrenner	Spence	Weber
Shaw	Stangeland	Weldon
Shays	Stearns	Whittaker
Shumway	Stump	Wolf
Shuster		Wylie
Skeen		Young (AK)
Slaughter (VA)		Young (FL)

ANSWERED "PRESENT"—2

LaFalce	Stenholm

NOT VOTING—12

Bilirakis	Hall (OH)	Luken, Thomas
Ford (MI)	Hall (TX)	Nelson
Ford (TN)	Hunter	Robinson
Gephardt	Leath (TX)	Serrano

□ 1648

Ms. SNOWE, Mrs. SAIKI, and Mr. CALLAHAN changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 175, answered "present" 1, not voting 10, as follows:

[Roll No. 305]

YEAS—246

Ackerman	Collins	Gejdenson
Alexander	Condit	Gephardt
Anderson	Conyers	Geren
Andrews	Cooper	Gibbons
Annunzio	Costello	Glickman
Anthony	Coyne	Gonzalez
Applegate	Crockett	Gordon
Aspin	Darden	Gray
Atkins	de la Garza	Guarini
AuCoin	DeFazio	Hamilton
Barnard	Dellums	Harris
Bates	Derrick	Hatcher
Beilenson	Dicks	Hawkins
Bennett	Dingell	Hayes (IL)
Berman	Dixon	Hayes (LA)
Bevill	Donnelly	Hefner
Bilbray	Dorgan (ND)	Hertel
Boggs	Downey	Hoagland
Bonior	Durbin	Hochbrueckner
Borski	Dwyer	Hoyer
Bosco	Dymally	Hubbard
Boucher	Dyson	Huckaby
Boxer	Early	Hughes
Brennan	Eckart	Hutto
Brooks	Edwards (CA)	Jacobs
Browder	Engel	Jenkins
Brown (CA)	English	Johnson (CT)
Bruce	Erdreich	Johnson (SD)
Bryant	Espy	Johnston
Bustamante	Evans	Jones (GA)
Byron	Fascell	Jones (NC)
Campbell (CO)	Fazio	Jontz
Cardin	Feighan	Kanjorski
Carr	Flake	Kaptur
Chapman	Flippo	Kastenmeier
Clarke	Foglietta	Kennedy
Clay	Frank	Kennelly
Clement	Frost	Kildee
Coleman (TX)	Gaydos	Kleczka

Kolter	Oakar	Skelton
Kostmayer	Oberstar	Slattery
Lancaster	Obey	Slaughter (NY)
Lantos	Olin	Smith (FL)
Laughlin	Ortiz	Smith (IA)
Lehman (CA)	Owens (NY)	Solarz
Lehman (FL)	Owens (UT)	Spratt
Levin (MI)	Pallone	Staggers
Levine (CA)	Panetta	Stark
Lewis (GA)	Parker	Stokes
Lipinski	Patterson	Studds
Lloyd	Payne (NJ)	Swift
Long	Payne (VA)	Synar
Lowey (NY)	Pease	Tallon
Manton	Pelosi	Tanner
Markey	Perkins	Tauzin
Martinez	Pickett	Taylor
Matsui	Pickle	Thomas (GA)
Mavroules	Poshard	Torres
Mazzoli	Price	Torricelli
McCloskey	Rahall	Towns
McCurdy	Rangel	Traficant
McDermott	Richardson	Traxler
McHugh	Roe	Udall
McMillen (MD)	Rose	Unsoeld
McNulty	Rostenkowski	Valentine
Mfume	Rowland (GA)	Vento
Miller (CA)	Roybal	Visclosky
Mineta	Russo	Volkmer
Moakley	Sabo	Walgren
Mollohan	Sangmeister	Washington
Montgomery	Sarpalius	Watkins
Moody	Savage	Waxman
Morella	Sawyer	Weiss
Morrison (CT)	Scheuer	Wheat
Mrazek	Schroeder	Whitten
Murphy	Schumer	Williams
Murtha	Serrano	Wilson
Nagle	Sharp	Wise
Natcher	Shays	Wolpe
Neal (MA)	Sikorski	Wyden
Neal (NC)	Sisisky	Yates
Nowak	Skaggs	Yatron

NAYS—175

Archer	Gingrich	Miller (OH)
Armey	Goodling	Miller (WA)
Baker	Goss	Molinari
Ballenger	Gradison	Moorhead
Bartlett	Grandy	Morrison (WA)
Barton	Grant	Myers
Bateman	Green	Nielson
Bentley	Gunderson	Oxley
Bereuter	Hammerschmidt	Packard
Bliley	Hancock	Parris
Boehlert	Hansen	Pashayan
Broomfield	Hastert	Paxon
Brown (CO)	Hefley	Penny
Buechner	Henry	Petri
Bunning	Herger	Porter
Burton	Hiler	Pursell
Callahan	Holloway	Quillen
Campbell (CA)	Hopkins	Ravenel
Carper	Horton	Ray
Chandler	Houghton	Regula
Clinger	Hunter	Rhodes
Coble	Hyde	Ridge
Coleman (MO)	Inhofe	Rinaldo
Combest	Ireland	Ritter
Conte	James	Roberts
Coughlin	Kasich	Rogers
Courter	Kolbe	Rohrabacher
Cox	Kyl	Ros-Lehtinen
Craig	Lagomarsino	Roth
Crane	Lent	Roukema
Dannemeyer	Lewis (CA)	Rowland (CT)
Davis	Lewis (FL)	Saiki
DeLay	Lightfoot	Saxton
DeWine	Livingston	Schaefer
Dickinson	Lowery (CA)	Schiff
Dornan (CA)	Lukens, Donald	Schneider
Douglas	Machtley	Schuette
Dreier	Madigan	Schulze
Duncan	Marlenee	Sensenbrenner
Edwards (OK)	Martin (IL)	Shaw
Emerson	Martin (NY)	Shumway
Fawell	McCandless	Shuster
Fields	McCollum	Skeen
Fish	McCrery	Slaughter (VA)
Frenzel	McDade	Smith (NE)
Gallegly	McEwen	Smith (NJ)
Gallo	McGrath	Smith (TX)
Gekas	McMillan (NC)	Smith (VT)
Gillmor	Meyers	Smith, Denny (OR)
Gilman	Michel	
Smith, Robert (NH)	Stenholm	Walsh
Smith, Robert (OR)	Stump	Weber
Snowe	Sundquist	Weldon
Solomon	Tauke	Whittaker
Spence	Thomas (CA)	Wolf
Stallings	Thomas (WY)	Wylie
Stangeland	Upton	Young (AK)
Stearns	Vander Jagt	Young (FL)
	Vucanovich	
	Walker	

ANSWERED "PRESENT"—1

LaFalce

NOT VOTING—10

Bilirakis	Hall (TX)	Nelson
Ford (MI)	Leach (IA)	Robinson
Ford (TN)	Leath (TX)	
Hall (OH)	Luken, Thomas	

□ 1707

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SIKORSKI). Pursuant to House Resolution 449 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4000.

□ 1708

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment and for other purposes with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 45 minutes; the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 45 minutes; the gentleman from Texas [Mr. BROOKS] will be recognized for 45 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER], will be recognized for 45 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, may I simply say at the beginning, before we get into the issue of the merit of H.R. 4000, that H.R. 4000 was introduced at the beginning of the year, in February of this year, as a response to the Supreme Court decisions of 1989. It was introduced at the request of some 180 sponsors, a number which has since increased, Republicans and Democrats alike.

□ 1710

Along the way, as I recall, in chairing the Education and Labor Committee, the administration also later introduced a bill. I do not know what has happened to that bill. It was obviously an opportunity for the administration to present its bill before the committee and to include any ideas that might emanate from that group. Later another bill was introduced which I assume was the genesis of the substitute which has been permitted to be introduced today. That substitute has been generally referred to as authored by different individuals whose names have been repeated here today. I have no way of knowing whether or not the substitute was the work of any particular individual. I have referred to it in different ways as different authors have surfaced.

We have conducted more than seven hearings on H.R. 4000. We have sought the views of every Member of the Congress. We have made several amendments in order as a result of individuals suggesting different other ideas.

The question is, it seems to me, one of fairness, that we have sought to be fair to everyone and to the American people as well. Everyone has had an opportunity to respond to the Supreme Court decisions made more than a year ago, so everyone has had a great opportunity to be for civil rights, to sponsor a civil rights bill. So if we have only one before us or two before us today, it is because the others desired not to sponsor a civil rights bill.

It is on that basis that I am proud as chairman of the committee to be presenting a bill today which is supported by Republicans and Democrats, by more than 125 organizations, and I think it speaks for the American people and presents a consensus.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I say this not because I am looking for pats on the back or patting myself on the back, but to set the tone of why I am involved in the debate today. Helping those less fortunate than I have been, not because of wealth but because of other circumstances, has been the work of my life, and it has been a work of love. So when we talk about WIC, when we talk about school lunch, child nutrition, Even Start, Head Start, chapter 1, and on and on, I take a back seat to no one in the Congress of the United States, and therefore, I want to make sure that today we pass a pro-civil-rights bill, a bill that the President will sign, a bill that will not encourage quotas, a bill that will help the aggrieved. I think the lawyers can fend for themselves and fill their pockets without us helping them. And yes, maybe this is asking for too much, I

would even like to have a civil rights bill that will protect the people who serve in the Congress of the United States, who want to stand up for their rights, who have opinions of their own so they are able to say those things and do those things without the fear of recrimination. Perhaps that is asking for too much.

But I am here to say today that, in my estimation, the Kennedy-Hawkins bill does not fit that. There is a bipartisan substitute that I think will.

Mr. Chairman, despite long debate in committees of this Congress and in the press, there still is serious misconception about the Kennedy-Hawkins bill. I would like to once more try to lay these misconceptions to rest so that my colleagues clearly understand just what this legislation does.

The proponents of the Kennedy-Hawkins legislation have repeatedly stated that their intent is to overturn a series of five Supreme Court rulings which they feel, and in some cases I feel have irreparably harmed the discrimination laws in this country. But in actual fact, Mr. Chairman, the Kennedy-Hawkins bill does much more. There are cases that would significantly modify upward of 25 other decisions, and it would change not 5 but 9 Supreme Court rulings.

In four of the nine cases, and this really bothers me, in four of the nine cases the reversal would have the effect of benefiting lawers. I repeat, benefiting lawyers, not plaintiffs, not victims of discrimination, but lawyers. I ask my colleagues, is that what we are really trying to achieve in this legislation, to line the pockets of lawyers?

Kennedy-Hawkins would also institute extensive changes to current civil rights laws totally unrelated to these changes and cases, and amend title VII of the Civil Rights Act of 1964 to include both punitive and compensatory damages, remedies which are available nowhere, nowhere else in labor law.

It includes a provision which in effect would allow a lawyer to reject a settlement, even a settlement which the plaintiff wanted, if his or her lawyer's fee were not acceptable as determined by, who else, the lawyer. Again, we are creating legislation for lawyers, not for victims of discrimination.

Proponents of this legislation will protest I know, but once again it must be made clear, the provisions of Kennedy-Hawkins aimed at reversing the Supreme Court decision in Wards Cove will result in quotas in hiring and promotion, and no matter how often we discuss an amendment that will be presented today that positively, positively does nothing, we will not be able to get away from it. Let me put this as simply as I can. If you are an employer and you have a work force in which certain jobs do not mirror the demographics of the relevant outside labor pool, you can now anticipate having to justify any and all employment practices you have against a possible lawsuit by a plaintiff who is part of a protected group which is unrepresented in your business. And what will you do to avoid the lawsuit? You will ensure that the positions in your work force mirror the relevant outside labor pool. It is quotas, folks.

Proponents scoff at this argument. They say we are just returning to Wards Cove law, and they said it did not occur before. With all due respect to my esteemed colleagues, I would ask them to show me in current case law precisely where their exact language, "there is a significant relationship to successful performance on the job," and "must bear a significant relationship to a significant business objective of the employer," exists in current law.

So again I would say, Mr. Chairman, as we consider our bipartisan substitute to the Kennedy-Hawkins bill I would hope everyone would listen carefully to the debate. I want to make sure, as I said before, that it is a true civil rights piece of legislation, and that we will be helping the aggrieved above all.

Mr. Chairman, despite long debate in committees of this Congress and in the press, serious misconceptions still exist about the Kennedy-Hawkins bill. I would like once more to try to lay these misconceptions to rest so that my colleagues clearly understand just what this legislation does.

The proponents of the Kennedy-Hawkins legislation have repeatedly stated that their intent is to overturn a series of five Supreme Court rulings which they feel have irreparably harmed discrimination law in this country. In actual fact, Kennedy-Hawkins does much more.

Kennedy-Hawkins would reverse not five but nine Supreme Court cases and would significantly modify upwards of 25 others. In four of the nine cases, this reversal will have one overriding effect—to benefit lawyers—not plaintiffs, not victims of discrimination, but lawyers. I ask my colleagues—is that what we are trying to achieve with this legislation—to line the pockets of lawyers?

Kennedy-Hawkins would also institute extensive changes to current civil rights laws totally unrelated to these cases—it amends title VII of the Civil Rights Act of 1964 to include both punitive and compensatory damages—remedies which are available nowhere else in labor law. It includes a provision which in effect would allow a lawyer to reject a settlement—even a settlement which the plaintiff wanted—if his or her lawyer's fees were not acceptable—as determnined by the lawyer, of course. Again, we are creating legislation for lawyers and not for victims of discrimination.

Proponents of this legislation will protest, I know, but once again it must be made clear—the provisions of Kennedy-Hawkins aimed at reversing the Supreme Court's decision in Wards Cove will result in quotas in hiring and promotion—however surreptitious -on the part of employers.

Let me put this as simply as I can. You are an employer and you have a work force in which certain jobs do not mirror the demographics of the relevant outside labor pool. You can now anticipate having to justify any and all employment practices you have against a possible lawsuit by a plaintiff who is part of a protected group which is underrepresented in your business. What will you do to avoid such a lawsuit? You will ensure that positions in your work force mirror the relevant outside labor pool—in a word—quotas.

Proponents scoff at this argument—"We are just returning to pre-Wards Cove law," they assert, "and this didn't occur then." With all due respect to these esteemed colleagues, I would ask them to show me—in current case law—precisely where their exact language, "bears a significant relationship to successfui performance on the job" and "must bear a significant relationship to a significant business objective of the employer," exists. In any case, the proponents have offered various formulations on the issue of "business necessity," beginning with "essential to effective job performance" and ending with today's language. Each time they have said, "This solves the quota problem." Which version should we believe—indeed, why should we believe any of them?

Other serious issues have been raised during our debates on this legislation, including its impact on the prompt resolution of disputes which has always been the primary goal of title VII. I would submit that the remedies sections of this bill, combined with the extension of the statute of limitations to 2 years, the retroactivity provisions reopening hundreds of closed cases, and the outrageous provisions for lawyers, will not lead to swift resolutions but rather to the extended pursuit of the proverbial "pot of gold."

Mr. Chairman, later today we will consider a bipartisan substitute to Kennedy-Hawkins. This substitute represents a serious effort on the part of many in this Chamber to craft a responsible and responsive piece of legislation which avoids the problems so pervasive in Kennedy-Hawkins in its current form. It will not lead to employment quotas, it will not lead to a "lawyer's bonanza," and it will not lead to a Presidential veto. It will lead to equal justice for all.

I would urge my colleagues to pay careful attention to the very serious debate which will take place on this floor during consideration of Kennedy-Hawkins and to recognize and support the merits of the bipartisan substitute.

Mr. Chairman, I reserve the balance of my time.

□ 1720

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the American people have made tremendous strides in eliminating inequities in the workplace for women and minorities. Under a postcivil war act—the Civil Rights

Act of 1866—and title VII of the Civil Rights Act of 1964, timeworn habits, fixed attitudes, and discriminatory patterns have given way to acceptance and greater opportunity for all our citizens.

Yet, in a few short months in 1989, the accomplishments of years of struggle have been placed in grave jeopardy by a Supreme Court that appears determined to look for ways to place roadblocks in the way of this progress. In five major decisions in the area of employment for women and minorities, the Supreme Court has veered away from the consensus view of the Congress' intent in enacting these remedial statutes.

The purpose of the Civil Rights Act of 1990 is to clarify and strengthen the employment-related civil rights laws that have been thrown into such confusion by our Highest Court. The act effectively overturns these five decisions. In addition, the bill permits victims to seek damages for intentional discrimination.

Mr. Chairman, this bill is essential to restore this Nation's commitment to civil rights and end the continued unraveling of our civil rights laws—laws that have come to be accepted by businesses, labor unions, and the American people over decades of time. H.R. 4000 will assure women and minorities equal access to the workplace and fairness in seeking remedies for wrongs.

Specifically, the bill clarifies that decisions in employment may not be based on race, color, sex, or religion; racial harassment on the job is prohibited; employers must justify employment practices that have a disparate impact; the statute of limitations takes effect at the time discrimination is experienced; consent decrees are protected from delayed challenges; and victims of intentional discrimination may be compensated for the harm they have suffered.

A vote for H.R. 4000 is a vote for equity, justice, and opportunity in the workplace. It will reaffirm our national commitment to the principle that people seeking a job must be judged on their own individual skill, performance, abilities, and record of hard work—not on their race, religion, sex, or other factor. I urge the Members to support the Civil Rights Act of 1990.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this afternoon we are going through a debate that I think is very unfortunate. This bill could do a lot of good for a lot of people. It could meaningfully address discrimination in our society, but it is going to be vetoed and it is going to be vetoed because the ugly head of partisanship has gotten into the consideration of this legislation.

The way this bill is drafted is that it turns employment discrimination cases into a plaintiffs' lawyers full-employment act. It encourages litigation, and it makes quotas as the only effective defense to a lawsuit that might be brought either with merit or without merit.

I would like to explain why this is a quota bill and why this is a plaintiffs' lawyers enrichment bill, so that the issues can be very clearly placed on the table.

The engine that drives this bill is section 8, the remedy section, which for the first time allows jury trials with punitive and compensatory damages for unlawful employment discrimination charges. Compensatory damages not only include back pay and other out-of-pocket expenses that may be suffered but also sums for things like pain and suffering and for mental distress.

Because this is a jury trial system, we turn unlawful employment activities into torts, and the entire tort law system, with all of the warts and all of the complaints that have been lodged against it in recent years, end up going into the workplace.

A plaintiff's lawyer could very easily file a lawsuit he knew was of questionable merit, accepting a contingency fee, and the employer would then have to make the economic determination of whether to experience the expense of going to trial and being vindicated by the jury or whether it would be simply cheaper to cut the losses and to settle the case out of court.

Furthermore, the settlement provision of H.R. 4000, as reported by the Committee on the Judiciary, says that if in any way the defendant coerced the plaintiff into not paying the full attorney's fees, then the lawsuit cannot be dismissed and the settlement cannot be approved.

Now, given that scenario and given the huge litigation expenses that an employer would have to incur in order to vindicate his name, there is an encouragement to settle these cases whether they have merit or not. And then we have turned this issue not into a civil rights bill but to a bill that legalizes extortion against employers who are subjected to claims of unlawful discrimination that are without merit.

Now, to make matters worse, this bill also is retroactive. So that for things that were perfectly legal during the last year since the Supreme Court of the United States rendered the decisions that are complained of by the supporters of this bill, it retroactively makes those practices illegal and subjects the employers to the lawsuits and compensatory and punitive damages that I have outlined above.

And there is basic unfairness in the retroactivity statute.

For example, the Ward's Cove Packing Co., which is a fish packing firm in the State of Washington, in a community that is about 10 percent minority and has 24 percent minority people in skilled labor jobs and 52 percent minority people in unskilled labor jobs, spent 16 years and $2 million to win their case in the Supreme Court of the United States. And with this retroactivity feature, that expense will be lost and they will be subjected by an act of Congress to a retroactive illegal employment practice.

That is just flat out unfair. Later on during the debate the supporters of this bill are going to attempt to cap the punitive damages. But the way they have drafted their cap is that it is leaky, as leaky as a sieve and is not going to reduce the potential liability of an employer of 100 or more employees whatsoever, and I will explain that later.

So do not allow the supporters of this legislation to hide behind their phony punitive damages cap. It will have no practical effect on the litigation that will occur.

I would hope that if the Michel-LaFalce amendment is not approved, then this bill would be defeated and we could go back to the drawing boards to address real discrimination in the workplace that does exist, to deal with the Supreme Court decisions that did misread the intent of Congress. I will admit there are at least two of them.

And to get a bill together that is fair and balanced, and which the President of the United States can sign.

This would restore the bipartisan consensus on civil rights that we had during the 1950's and 1960's, and early 1970's and even up to the passage of the Voting Rights Act extension of 1982, because with that bipartisan consensus we have made real progress in civil rights. And I would hope that we would continue that bipartisan consensus through the adoption of the Michel-LaFalce amendment and, failing that, send this bill back to the drawing boards.

□ 1730

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT Mr. Chairman, I rise in support of the bill. I commend the chairman, the gentleman from California [Mr. HAWKINS] for his efforts. It is probably his last term from what I understand. He deserves much credit in this country for the progress we have made.

The Civil Rights Act of 1990 is very seriously one thing, folks: It keeps in place the original intent of the Civil Rights Act of 1964. Now, what screwed up in Washington is very simple. The Constitution says that the people's

representatives makes the laws. The President executes the laws and the Supreme Court interprets. What we have in 1990, is a Supreme Court that is setting laws, and the Congress letting them get away with it. Those days are over with the back of the bus. The buzzword has become "quotas." There are no quotas in this 1964 act. There are no quotas here, and that is nothing more than the excuse to deny opportunities in the workplace. We have a number of people in this country that are not participating in the progress of our great Nation leaving many American citizens only one option, to be on the street corners. Members know it as well as I know it.

So what we are here about today is, very simply, to let the Supreme Court know that what Congress did in the 1988 session with the 1964 Civil Rights Act is the intent of what Congress wants to reestablish today. We are not setting all that new territory. I think it is time that Congress legislates, watches very carefully a Supreme Court which has gone beyond that and is trying to legislate, and Presidents who are recommending laws, not executing them. They have a veto power, pull out your pen, but Congress legislates.

Mr. Chairman, I would like to give a tribute here to the chairman of the committee, the gentleman from California [Mr. HAWKINS]. I think his name will appear in history along many of the great strides we made in civil rights. I think we all owe him that tribute.

Mr. Chairman, I rise in support of H.R. 4000, the Civil Rights Act of 1990. The import of this bill cannot be overlooked. This bill is a direct reaction of judicial activism of the U.S. Supreme Court. Justice Blackmun, in his dissent in the Wards Cove decision, said of his conservative colleagues on the Court, "One wonders whether the majority still believes that discrimination is a problem in our society, or even remembers if it ever was." Well, obviously the conservative majority does not, and now it is Congress' duty to respond to misinterpretations of the statutes we enact. The intent of the Civil Rights Act of 1964 and the Civil Rights Act of 1990 is clear—to rectify inequities in our society. The Civil Rights Act of 1990 is designed to restore the original intent of the 1964 act. We are here today to endorse a policy: That all discrimination in employment is wrong, and it will not be tolerated. What was said in the House report of the 88th Congress holds true today, "Nothing in this bill permits a person to demand employment * * * internal affairs of employers will not be interfered with except to the limited extent that correction is required in discrimination practices." Employers, have been scared witless by opponents of this legislation, this is not a quota bill. The word quota, is the buzzword used by opponents of civil rights, to scare employers out of their wits. Well, the argument of quotas didn't work in the 1964 debate and I hope it is not successful today. Representatives ANDREWS' and NEAL's amendment guarantees that this is not a quota bill.

If the Price Waterhouse decision is not overturned, then we send the message that there is nothing wrong with a little overt racism or sexism, as long as it was not the only thing on the employer's mind. We must reaffirm the principle that title VII tolerates no discrimination.

I would also like to address the issue of punitive damages. As it stands now, victims of racial discrimination, under section 1981, are the only victims of discrimination that are entitled to punitive damages. If this bill passes then all victims of discrimination will have the right to seek punitive damages in such cases with the Hawkins amendment limit of $150,000. I hardly consider that an offensive measure. By not doing this we then send the message to other victims of discrimination that they are second-class citizens, who only deserve second-class remedies.

I also endorse the lengthening of the statute of limitations for filing with the EEOC to 2 years. One of my own constituents, Boyd Graves, fell victim to this technicality. The merits of his case were never heard because of confusion in the system. Most discrimination complainants represent themselves and this expansion will help them pursue their claims.

Mr. GOODLING. Mr. Chairman, I yield 15 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I wish I were not here today. I wish this bill had been scheduled as I was originally told it was going to be scheduled, in September, because we would have had time to sit down quietly and discusss the issues within our own party and with the Republicans, and hopefully, and maybe I am naive in this, we could have come out with a great bill.

It did not work out that way, unfortunately. So I am here in what has been a painful day and a painful week. I hope it will not be painful forever. It is painful for me as a person. It is painful for me as a Democrat. It is painful for me as a committee chairman. However, do what must be done, and try to be true to yourself. That gives a person solace. I am doing what I think somebody must do, and nobody else would. I wish it were not me, but it is.

I am not just a Democrat. I am also a liberal. I have received the endorsement of the Democrat and Liberal Parties every year that I have run for office: 1970, 1972, 1974, 1976, et cetera. I never have any problem with the Democratic leadership except for a few primaries I had some problem with the Liberals. Sometimes I had to go into Supreme Court to maintain that, and people told me, "In your district you are crazy." I do not know of any other district incumbent in my congressional district who has ever held both, but I wanted both. I still do, Little more difficult time getting it this year than in the past, unfortunately, because of the issue of abortion. I am a liberal there too. I happen to believe in the rights of the child in the womb. Maybe I should not have mentioned that because that is extraneous to this debate. However, I think that most individuals who ask how to characterize me would respond, "He is a flaming moderate." I am surely my own man, and every Member in this body knows that. I have a lot of 90-percent AFL-CIO voting records. They have not endorsed me the last 2 elections because I disagree with them on the textile bill. So be it. And a whole slew of other things. I think this flaming moderation of mine comes because of a cardinal principle that motivates me in almost every judgment I make. That is, the world is made up of competing interests, and those competing interests often are valid but competing. So we need to reconcile those valid but competing interests. That may sometimes mean I am vehemently opposed to the Republicans, and sometimes it means I am strongly opposed to what my Democrats want to do. Not too often. I probably have about an 80 percent consistency, maybe 90 percent, I don't know. I think it is great, it is pretty good. Nobody could find fault with it.

On the issue of civil rights, I try not to wear many things on my sleeve. People have said, "For 15 years we didn't know you felt so strongly on the issue of abortion." I also did, always voted that way. It was only when people started yelling and screaming and making it uncomfortable that I felt a person must speak out.

My life got a little bit more complicated in 1987 because then I was elected chairman of the Subcommittee on Small Business, and I said, "By God, I'm going to be the best chairman the Commitee on Small Business has ever had, if it is within me to do that." That makes it tough, though, and I am a Democrat, and I am going to remain true to the Democratic principles, but I am going to make sure that the interests of the small business community are heard, and so we can reconcile the interests of the small business community, and Democrats, whether on the issue of the minimum wage, whether it is on the issue of family leave, whatever it might be.

That is what society is all about. That is what good law is all about. Something happened today. I am attempting to reconcile different interests in the Superfund. I just testified on that this morning for a subcommittee of the gentleman from Ohio [Mr. THOMAS A. LUKEN]. I introduced the first Superfund bill in Congress, because I represent Love Canal, the very first one, and now I am trying to change Superfund. The environmentalists are saying the worst things in the world, but the law has been inter-

preted in an extreme fashion, and it needs correction. We need to restore its original intent. A little nature victory. EPA says now they agree with me. The Court has gone too far with legitimate concerns and they will promulgate a new rule and maybe come up with legislation if need be with a few cautions. Mine is not the best in the world. It needs some improvements, but it will work.

□ 1740

That is great. I felt the same way about family leave. I feel very strongly that we need better family leave laws. I remember when the gentlewoman from Colorado [Mrs. SCHROEDER] introduced the first bill. I said, "I want to coauthor that," and I asked her if she would take a picture with me, and I put it in my newsletter and I said, "We need a strong national policy on family leave."

Rational people can disagree on this, but I thought that the bill that was introduced got greedy. It went so far, and it backtracked in certain ways from what was asked, but it went so far in others. It added spousal care and elderly care, which to my knowledge, after my investigation, no other country on the face of this Earth has. I will not go into that.

But now I feel compelled to try hard to get a good moderate family leave bill passed in this Congress, and I have written to every single Member saying, "Let's try again."

There again, I think that was my idea of moderation. But there is a problem. This is a civil rights bill, and civil rights is different. We cannot be moderate about civil rights, not given the history of discrimination, especially against blacks and also especially against women in the history of the United States. We must be zealous.

But there is another problem, too. I feel passionately about something else. I feel passionately about the rule of law. I think the rule of law is what keeps us together. It is what binds us together. It is what makes this country whole. There are a lot of things to consider about the rule of law, but most essentially the rule of law must be fair. I feel passionately about that.

So how do we proceed? Well, we need very good laws. We need very strong laws to deal with discrimination, and our discrimination laws were not strong enough in the past. Our discrimination laws, as interpreted by the Supreme Court, are now disgracefully weak. We must reverse those Supreme Court decisions, and we must strengthen the civil rights law that exists. But we must do so fairly. We must not assume and the law must not assume that everyone who alleges discrimination is de facto a victim of discrimination.

This bill does not do that. But we ought not to tilt the rule so much, we ought not to tilt the scales of justice, which must always be equal. I think the committee bill does that, and I have attempted to come in with a substitute that reverses the Supreme Court decisions, that strengthens the civil rights laws. It strengthens the civil rights laws so that any victim of discrimination can prove his or her case without insuperable difficulties and get not only backpay but significant equitable relief.

I wish I had more to work with the Members to accomplish this. I saw the bill going through so fast, and I did not want to do what I had to do. Last Wednesday I asked, "Can't this civil rights bill be brought up, as I was originally told, in September?" And I was told there was nothing else that could be scheduled for the calendar this week. Well, I read between the lines on that. Then we got together, and I said, "You know, I feel a little bit guilty." Again it goes back to the family leave bill. I said, "I feel guilty that as chairman of the Small Business Committee I didn't become more involved before the bill was passed."

I left it up to somebody else. The gentleman from Minnesota [Mr. PENNY] had an amendment that I was going to support. That did not do everything I want to do, not by a long shot, but at least it was something. There is always a conference and different bills to be considered, but it did not work out that way.

I said, "Look, let's not get caught short again. Let's try to become involved if we can."

I had almost no time to do this. Maybe I did not do it in the best way I could have, but I tried my best. I scheduled a hearing. I scheduled the hearing initially for Wednesday when I though the bill might come up on Friday. Then, after I scheduled it for Wednesday, I found out the bill was going to come up on Wednesday, and I said, "Let's try to reschedule it for Monday."

They said, "What are you going to do?"

I said, "I don't know what I am going to do until I hear everybody." They said, "Who do you want to hear?"

I said, "Get the best legal minds in the country on both sides."

They said, "Who do you want on the civil rights side?"

I said, "Let's get Elanor Holmes Norton, Let's get Vernon Jordon. Let's get Larry Tribe, et cetera."

I also ran into somebody at the White House when I was there for the signing of the ADA: John Dunne, the Assistant Attorney General whom I served with in my days as a New York State Senator.

I said, "John, I really need to know what you think about this, and I really need some terrific tutoring on this fast."

The CHAIRMAN. The time of the gentleman from New York [Mr. LAFALCE] has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 10 additional minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I tried to stack up all the Supreme Court decisions, the Kennedy-Hawkins bill, and the Republican substitutes that were offered in the Judiciary Committee, because I though they would offer me something to see where I was. As I viewed Kennedy-Hawkins, I said, "That seems to me extreme." And as I viewed the Republican amendments offered in the Judiciary Committee, I said, "They seem to me extreme." In almost every case, not every one, I was in between. Then I became aware that Senator NANCY KASSEBAUM in the Senate had worked on a bill that attempted to strike a compromise that she had worked on with perhaps a dozen Democratic Senators.

□ 1630

Mr. Chairman, it seems to me, and time was short, that the introduction of that bill, which agreed with my position in virtually every score, was the most expedient way if I wanted to introduce a bill immediately to just have something there for the RECORD, and I immediately wrote to the Speaker and the chairman of the Committee on Rules and said, "I may wish to offer a number of amendments, or, if not, a substitute."

Mr. Chairman, I was then told that a number of amendments would be impossible, that this was going to be, and this would have been my preference, a very narrowly drawn rule. One or two amendments perhaps.

I said, "Well, what I would like then is to let the Republicans offer whatever substittue they want to, and I'll come in with my substitute, and it will be in between. It will be moderate, and it will be fair, and it will be balanced."

Mr. Chairman, maybe I am wrong, but I pray I am not, and, if I am, and anybody can educate me about that, I will change my mind.

A funny thing happened on the way to the forum. I think the Republicans decided they had no chance at all, if they went with their substitute. I still wanted to introduce my substitute because I thought the bill was extreme. So, I ask that my substitute be made in order.

Then, Mr. Chairman, I was told that it would be a Republican substitute. I said, "Well, I'd still like to offer mine," but then they were going to.

It became very complicated, and there was partisanship on both sides. I mean the Democrats were trying to win, the Republicans were trying to associate themselves with my name, and I got caught in the middle.

The rule that finally came out said it should be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. Mr. MICHEL does not want a Democrat to be his designee, and this Democrat does not want to be the designee of Mr. MICHEL.

However, Mr. Chairman, I do want a good law passed, whether it is offered by a Democrat or Republican. It should not make any difference.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, the gentleman from New York [Mr. LAFALCE] has such limited time, and I have been listening attentively. Does he intend to address any part of his amendment in the remaining part of the time that has been allotted?

Mr. LAFALCE. Mr. Chairman, I say to the gentleman from New York [Mr. RANGEL], "Charlie, it depends whether I'm able to get to it."

Mr. RANGEL. OK.

Mr. LAFALCE. Mr. Chairman, there is something that disturbs me very much, and that is more litmus tests. I mean nobody should be viewed as for or against civil rights depending on how they vote on the substitute that is going to be offered. That is my opinion. That is my opinion.

I have a lot of concerns. I will not go into them now. I will go into them after the gentleman from Pennsylvania [Mr. GOODLING] offers his substitute later, but I have concerns about the issue of causation.

My colleagues, it seems to me that causation is a fundamental concept in the law, and I am very worried that the committee bill dilutes the traditional concepts of causation considerably.

I am very concerned that subjective criteria, which everyone agrees are legally permissible, must be shown now by demonstrable evidence. I am very concerned about the definition of business necessity, and I am concerned with who is really telling the truth in saying they are restoring the test of Griggs.

My colleagues will see that there is language in Griggs that Kennedy-Hawkins uses, and there is language in Griggs that the substitute uses. It is my belief that the language of the substitute is the language contained from the holding and the language that has been cited in every single Supreme Court decision ever since.

I am concerned about the issue of mixed motives. I think Justice Brennan's decision was wrong. It is ironic that it was Justice Brennan. We think Justice Brennan's decision was wrong. We both want to reverse it.

The question is: How far do we go in reversing Justice Brennan's decision, and what is appropriate?

I am not sure that the words in the substitute are the best words. I say to the gentleman, "Yours are very wrong. Maybe we can work together."

There are a whole host of other things.

Maybe my biggest problem which I have not mentioned is the conversion of basically a conciliation process into an adversarial relationship by giving plaintiffs an absolute right to demand a jury trial upon an allegation of intentional discrimination, by giving them, even after the amendment, putting a cap on punitive damages is passed, by giving them a right to unlimited pain and suffering. I think we do violence to the whole concept of title VII of the civil rights law, and we do violence to our judicial system, and I hope we can work out some type of a compromise.

Let me conclude. I want very much to see a good civil rights bill pass. There is nobody in this House who wants to see a good civil rights bill passed more than I. After my conversations with the President yesterday, I believe that, if the substitute goes down, there will be no ceremony. I could be wrong. He could change his mind. I believe that, if the substitute goes down, there is virtually nothing to negotiate on in conference. The committee bill and the Senate bill are virtually identical.

Should the substitute be passed, it does not become the law of the land. We go to conference. The gentleman from California [Mr. HAWKINS] will be in that conference. The gentleman from California [Mr. EDWARDS] will be in that conference. TED KENNEDY will be in that conference. Hopefully we can come out with a good civil rights bill that will not arouse partisanship, that will be signed by the President.

There is nothing more that I want to do than be with the gentleman from New York [Mr. RANGEL], the gentleman from Illinois [Mr. HAYES], the gentleman from Georgia [Mr. LEWIS], the gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman from Texas [Mr. WASHINGTON], and the gentleman from California [Mr. EDWARDS], all of them, when we sign that good civil rights bill into law.

If it does get signed into law, I hope history might give me some recognition for making it possible.

The CHAIRMAN. Under the rules of general debate, the gentleman from Wisconsin [Mr. SENSENBRENNER] reserves the balance of his time, and the Chair will recognize the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. EDWARDS], the chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Chairman, the subcommittee that I chair had the responsibility for the Committee on the Judiciary's portion of the bill, last year, when we and the civil rights community and concerned Americans everywhere saw and read what the Supreme Court was doing and had done to civil rights laws that had been working very well for many, many years and bringing equity to minorities, to women, to different segments of our society that had not been allowed to participate fully. A shock wave ran through the country and said, "What is this Court doing?"

□ 1800

Then we realized that it was some of the first actions of the Supreme Court where a majority was appointed by President Reagan and that we could expect more of this. And so we went to work, fine lawyers all over Washington and elsewhere went to work to help draft some legislation that would return the law to where it was and to where it had been working so satisfactorily all these years.

We are not talking just about five cases where civil rights were injured sorely, Mr. Chairman, there were a number more.

This bill before us today only deals with five, plus portions of a few more which my extended remarks will describe.

I was privileged, as the chairman of the subcommittee, to share the hearings with the Education and Labor Committee, chaired by my friend of nearly a half century, the great Congressman from California who was sworn in on the same day that I was sworn in back in January 1963.

Mr. Chairman, we held weeks of hearings, and the hearings did not just go on in the morning. They went on from early morning until late in the afternoon and sometimes into the evening. Some of my friends from the Education and Labor Committee and the Judiciary Committee on both sides of the aisle attended and listened carefully to all of the experts. All of the Members were invited to testify, Members of the House of Representatives who were interested in this subject and who were concerned about these Supreme Court decisions and what it was doing to the civil rights laws and to our fellow Americans.

The gentleman from New York [Mr. LAFALCE] did not testify in all the many months that my subcommittee and I have been working on this bill. The first time the gentleman from New York [Mr. LAFALCE] mentioned the bill to me was in the elevator yesterday. We would have loved to have heard from the gentleman from New York [Mr. LAFALCE]. We would have loved to have had him testify.

This bill before us today was approved after great study and hearings after hearings by the Education and

Labor Committee and then by the Senate. The Senate bill and the Education and Labor Committee bill and the Judiciary Committee bill are very similar. They are fine bills. I think that is the proof that the amendments to be offered, the substitute to be offered by the Republicans, should not be accepted because it varies so much from the bill and it does not take care of the five Supreme Court cases. Perhaps it takes care of two of the weakest, starkest, but certainly not all five cases.

What the bill does, in short, Mr. Chairman, in the most controversial part—the Wards Cove case—it returns the law to where it was in the Griggs decision of 1971.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, Griggs was a unanimous decision of the Court, written by Chief Justice Burger. The Court held there that practices need not be motivated by discriminatory intent if they have a discriminatory effect and cannot be justified by business necessity. That worked very well for all the years since 1971, until it was turned on its head last year by the Wards Cove decision of the Supreme Court.

I assure you, Mr. Chairman, all we are doing—and we are using the exact words of Chief Justice Burger in this bill—we are returning the law to Griggs, and I assure you that Griggs did not result in any quotas.

Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

H.R. 4000, as reported to the floor, is essentially the bill reported by the Judiciary Committee last week. The Judiciary Committee approved the bill by a vote of 24 to 12.

H.R. 4000 amends the Civil Rights Acts of 1866 and 1964 to restore and strengthen civil rights laws that ban discrimination in employment. The Supreme Court dramatically narrowed these laws in a series of decisions last year.

H.R. 4000 overturns five major cases: Patterson versus McLean Credit Union, Wards Cove Packing Co. versus Atonio, Price Waterhouse versus Hopkins, Martin versus Wilks, and Lorance versus AT&T.

The bill also overturns a number of other cases that have adversely affected the ability of victims of employment discrimination to find an attorney and to present a case. H.R. 4000 also makes important changes to strengthen the civil rights laws and to fill inexplicable gaps in the law.

Mr. Chairman, earlier this month the Senate passed a companion bill, S. 2104. The Senate passed bill is quite similar to the bill reported by the Judiciary Committee, and it made a number of changes in response to concerns raised in both Houses.

I would like to take a few minutes to describe the two issues that have generated the most interest, the issue of disparate impact, which has been greatly clarified by the substitute, and the issue of damages for intentional discrimination.

PROHIBITING DISCRIMINATORY EFFECT

The first part of the substitute overturns Wards Cove versus Atonio and codifies the prohibition against practices that have a discriminatory effect, as set forth by the Supreme Court in Griggs versus Duke Power Co.

Under Griggs, a unanimous decision written by Chief Justice Burger in 1971, the Court held that practices need not be motivated by discriminatory intent, if they have a discriminatory effect and cannot be justified by business necessity.

As the Court wrote:

Good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in headwinds' for minority groups and are unrelated to measuring job capability.

Since H.R. 4000 was introduced, there has been much confusion and misinformation about the standards the Supreme Court developed in Griggs. Let me take a minute to review the standards and show how a disparate impact case works under Griggs, and under H.R. 4000.

First, the individual applicant or employee has the first burden of showing that certain facially neutral employment practices result in a disparate impact based on race, color, religion, sex, or national origin. In order to show a disparate impact, the number of qualified persons in the relevant labor pool is compared with the composition of an employer's work force. One compares apples with apples, not apples with oranges. And like all civil rights laws, the individual claiming discrimination must be qualified.

If there is a statistically significant disparity, a disparity that cannot be explained away by chance, then a prima facie case of a disparate impact is made. If the plaintiff cannot make this showing, then the case is dismissed.

Some have claimed that H.R. 4000 permits a plaintiff to establish a violation solely on the basis of statistical comparisons. But H.R. 4000 does not change the Griggs standard of showing that there is a statistically significant disparity. The use of statistical comparisons is not new; employers have been subject to them since 1971.

I have received many letters stating that H.R. 4000 presumes employers are guilty until they prove themselves innocent. But H.R. 4000 only restores the burden of proof that existed before the Wards Cove case.

And that burden is first on the plantiff to show discriminatory effect—that there is a statistically significant disparity between the number of its employees and the qualified work force. If the plaintiff cannot make this showing, then the case would be dismissed.

But even if the plaintiff makes a prima facie case, the case does not end there. Under Griggs, an employer may continue to use a practice that has a discriminatory effect if the employer can show that the practice is required by business necessity.

The Court turned these principles on their head in Wards Cove. The Court did two things: First, it switched the burden of demonstrating business necessity from the defendant to the plaintiff, and second, it created a new, and far lower, standard of business necessity, a standard of "legitimate employment goals."

The substitute puts the burden back on the defendant to demonstrate business necessity if a plaintiff makes a prima facie showing of disparate impact. The substitute also restores the Griggs definition of business necessity.

In order to justify that the practice is required by business necessity, the employer must show that the practice bears "a significant relationship to successful performance of the job." This standard is taken from Griggs, from page 426 of the decision.

A number of commentators have claimed that employers will never be able to justify their business practices, that the standard of business necessity in the bill is impossible to meet. And thus, employers will resort to quotas to avoid liability.

In order to respond to these concerns, and to make it clear that we intend only to return to Griggs, the business necessity standard has gone through an evolution during our consideration of the bill. In the bill as introduced, it was "essential to effective job performance." In the subcommittee bill, it was "substantial and demonstrable relationship to effective job performance." Although this is very close to language in Griggs, and captures its essence, it differs slightly from the language in Griggs.

The language in the bill before us is language from Griggs, and demonstrates our intent to codify Griggs and its 18-year history. Employers were able to meet this burden under Griggs without resorting to quotas, in fact there is no evidence, absolutely none, that Griggs led employers to use quotas to avoid litigation. By restoring the Griggs standards, I do not see how the requirements of H.R. 400 will lead to quotas.

DAMAGES

H.R. 4000 is also designed to strengthen civil rights laws. Although few of us were Members in 1964, when Congress crafted the omnibus Civil Rights Act, all of us remember the situation then: A country segregated by law and tradition, and a civil rights bill subject to filibuster and compromise.

A compromise was reached on the bill and filibusters were ovecome. The result was a historic bill, but one not perfect by any means.

The 1964 Civil Rights Act only did so much. It did not cover voting rights, housing discrimination, or discrimination against the disabled. It provided a mechanism to address some of the worst problems we faced.

In the 26 years since, our Nation made great progress. We passed the Voting Rights Act in 1965, which has been strengthened and extended a number of times since. We passed the Fair Housing Act in 1968, and substantially strengthened it in 1988. And, just last week, the Americans With Disabilities Act, an omnibus civil rights law for persons with disabilities, was signed into law.

The title VII provisions of the 1964 act itself was amended in 1972 to provide a more effective enforcement mechanism for employment discrimination. But remedies were still limited to back pay and injunctive relief.

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So here, in H.R. 4000, we are strengthening title VII by adding a damages remedy for cases of intentional discrimination.

Damages are available only for intentional discrimination, and not for cases of disparate impact, as some opponents of the bill have misunderstood.

Compensatory damages are available for cases of intentional discrimination. In addition, the bill makes punitive damages available in cases of egregious violations—if the employment practice was engaged in "with malice, or with reckless or callous indifference to the federally protected rights of others."

Compensatory and punitive damages are already available to victims of intentional racial discrimination, under 42 U.S.C. section 1981. But women and religious minorities, who are covered only under title VII, cannot be awarded any damages at all.

By adding damages to title VII, H.R. 4000 seeks to provide an adequate remedy for all prohibited intentional employment discrimination, whether based on race, color, religion, sex, or national origin. The same remedies should be available for all victims of intentional discrimination.

This should not be the subject of controversy. As Members recall, we removed the cap on punitive damages in the Fair Housing Amendments Act of 1988. And damages under the Fair Housing Act are not as restricted as under H.R. 4000: They are not limited to cases of intentional discrimination, nor are punitive damages limited to cases of malice, or reckless or callous indifference, as they are in H.R. 4000.

Remember, too, that the right to a jury trial was the fundamental point of contention we had with the National Association of Realtors and the White House on the fair housing bill, and this issue bottled up the bill for 10 years. By providing a right to a jury trial, we were able to accommodate the realtors and the White House, and enact the fair housing amendments.

Our hearings on H.R. 4000 detailed horrifying stories of sexual harassment, harassment without remedy. Listen to the distressing testimony of Carol Zabkowicz, who worked as a warehouse worker for the West Bend Company.

My co-workers would constantly pull on my bra straps. One of my co-workers left a handwritten poem on my desk regarding my sex life with my husband. Another man would often call me "sexy bitch," or "H and H," which I discovered meant "Hot and Horny." Still another would grab his penis in front of me and ask me if I could handle his "twenty-five pounder." He would also call out to me, and when I looked in his direction, he would be standing with his buttocks exposed. Another man also exposed his buttocks to me, and on occasion would lift up the leg of the cut-off shorts he was wearing, call my name, and expose his testicles to me. This same man made a huge cardboard cut-out of a penis, which he would pretend to poke me with in the behind when my back was turned. Yet another man would post drawings of caricatures of myself. These drawings would depict me naked, often performing sexual acts with either a human being or an animal. My initials would be written on the drawings.

Mrs. Zabkowicz put up with this harassment for 4 years. She continually complained to her company but without results. She needed the job and also believed that she should not be forced out of the job because of the wrongdoing of others.

But finally it become too much for her. Besides severe emotional trauma, she also suffered vomiting, severe neausea, diarrhea, and cramping. While pregnant, her doctor advised her to take a medical leave of absence from her job, and she did.

She sued the company, and won. But she was awarded $2,700—back pay to make up for her medical leave of absence. She could not recover for her medical bills or emotional distress, or to punish the perpetrators. And in her words: "If I had never taken that medical leave, I guess I wouldn't have gotten anything for winning."

Why shouldn't victims of intentional gender and religious discrimination have an adequate remedy for intentional discrimination? Why shouldn't we follow the lead of the fair housing amendments and provide modern remedies for victims of discrimination?

Mr. Chairman, the Civil Rights Act of 1990 gives us the opportunity to reinvigorate the civil rights laws banning discrimination in employment. We should seize this opportunity to provide equal opportunity for all Americans.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH].

The CHAIRMAN. The Chair will indicate that by order of proceedings the time now goes to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I will take the next designation.

The CHAIRMAN. The gentleman from New York [Mr. FISH] is recognized.

Mr. FISH. I am delighted to speak in support of H.R. 4000, the Civil Rights Act of 1990. This legislation, which I joined in sponsoring, is designed to overturn the negative effects of certain recent, controversial Supreme Court rulings—and clarify and expand civil rights protections.

H.R. 4000, in the form we are considering today, incorporates a substantial number of changes fashioned by the other body in response to concerns expressed by the administration. This bill—together with Judiciary Committee reported language on quotas and a limitation on damages being offered as separate amendments—represents a compromise that merits favorable consideration in this body. The substitute, by contrast, disregards finely crafted efforts to accommodate diverse points of view in favor of a formulation that fails to effectuate important civil rights objectives. Although this legislation—without the substitute—does not enjoy administration backing, I am hopeful that compromises satisfactory to the President will be fashioned in conference.

The denial of employment opportunities to any of our citizens—based on such invidious criteria as race, sex, or religion—represents an injustice that cannot be tolerated in late twentieth century America. Although we have passed civil rights legislation on various occasions in the past—reaffirming our national commitment to ending discrimination—we recognize that the courts perform the critical role of applying statutory language in the context of litigation. When the Supreme Court renders restrictive interpretations of civil rights law designed to protect women and members of minority groups, it is incumbent on us—as the authors of such legislation—to clarify the meaning of the congressional design in ways that preserve and strengthen essential safeguards.

A review of some recent Supreme Court opinions underscores the need for remedial legislation.

It is unreasonable and burdensome to require individuals denied employment opportunities to disprove a business justification—a matter within the employer's special knowledge—yet this is the effect of Wards Cove versus Atonio.

It is disruptive to reopen consent decrees in civil rights cases when groups choose not to intervene in a timely fashion—yet this is the result in Martin versus Wilks.

It is debilitating when civil rights legislation, enacted in the immediate aftermath of the Civil War, is interpreted not to bar discriminatory harassment on the job—yet this is the outcome of Patterson versus McLean Credit Union.

It is unfair to bar employees, who could not anticipate adverse impacts in advance, from challenging seniority systems adopted with unlawful discriminatory motives—yet this will be the consequence if the decision in Lorance versus AT&T stands.

It is unjust for our courts to ignore reliance on discriminatory employment criteria simply because an employer can show that "its legitimate reason, standing alone, would have induced it to make the same decision"—yet this gap in civil rights law will remain if Congress fails to rectify the Price Waterhouse problem.

The unfortunate results of these decisions require corrective congressional action.

This legislation—I want to assure members of the business community—does not compel or encourage the use of quotas. As an opponent of employment-related quotas and an original sponsor of H.R. 4000, I can state with confidence that this is not a quota bill. The Civil Rights Act of 1990 contains a number of provisions designed to remove any doubts about this point.

The lingering perception that H.R. 4000 encourages employers to rely on quotas overlooks critical details of the bill. Concerns about quotas hopefully

can be laid to rest if we keep a few points in mind.

First, the legislation codifies—and explicitly acknowledges that it codifies—"the meaning of 'business necessity' as used in *Griggs* versus *Duke Power Co.*"—a Supreme Court decision with an 18 year history of not leading to quotas.

Second, section 4 of the Judiciary Committee reported bill—which is incorporated in the amendment on quotas—states unequivocally that "[t]he mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation." The term "disparate impact" appears in many judicial opinions involving employment discrimination. It refers generally to facially neutral practices which have disproportionate adverse impacts on women or members of minority groups.

Third, section 13 of our committee's reported bill—also incorporated in the amendment on quotas—addresses the quota concern head on with the following unequivocal language: "Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin. * * *"

This legislation provides a damages remedy in title VII of the Civil Rights Act, but damages will not be available in cases of unintentional discrimination—thus negating any suggestion that employers may need to rely on quotas in order to avoid large damage awards. In considering the damages section, we need to bear in mind that damages already are available for racial discrimination under other legislation. This bill places intentional employment discrimination based on sex, religion, and national origin on a footing comparable with discrimination based on race.

In that regard, I believe that the intentional discrimination limitation in H.R. 4000 is significant. There is no damages remedy at all in disparate impact cases.

Later today, we will have the opportunity to vote for a limitation on punitive damages for enterprises with fewer than 100 employees which, I understand, comprise 97 percent of all U.S. businesses.

This legislation safeguards the civil rights of millions in our work force without overlooking the needs of American businesses. I urge my colleagues to join me in supporting the Civil Rights Act of 1990.

□ 1810

The CHAIRMAN. The Chair will notify the Chamber that the gentleman from California [Mr. HAWKINS] has 40 minutes remaining; the gentleman from Pennsylvania [Mr. GOODLING] has 24 minutes remaining; the gentleman from Texas [Mr. BROOKS] has 36 minutes remaining; and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 24 minutes remaining.

The Chair again recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of the Civil Rights Act of 1990, not just as a Representative but as a former Director of the U.S. Office for Civil Rights, involved in enforcement actions that involved these laws.

This Nation, as we all know, is dedicated to the principle that all are created equal, and yet from its very first Constitution to this very day inequality and discrimination remain very much a part of our society. Progress has been made, there is no question about it, but the progress was not made through good will or good words. It was made through battles in the courts, in the streets, and here in the halls of Congress. All were fought for the simple point that there is no right unless there is a remedy. There is no law unless there is enforcement of that law.

As Director of the U.S. Office for Civil Rights, I can assure the Members that without the ability to enforce the civil rights acts to gain remedies for the discrimination that was found, little can be done to alter existing discrimination. Those are the tools of justice that we use in this country.

The Supreme Court unfortunately has eroded those tools and undermined the ability to protect equal rights. This bill restores the vital tools that we need for enforcement.

It is easy to talk about civil rights. It is easy to say you are for civil rights. It is probably easy to find reasons to vote against civil rights bills. But the real test today is not just talk, it is action and your votes.

John Mitchell when he was Attorney General of the United States during the Nixon years used to like to say, "Watch not what we say but what we do." It reflected the standard of hypocrisy on Justice at the time.

Today the House has the opportunity to say and do the same thing by voting for a strong civil rights act.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the Hawkins-Kennedy bill. I would like to talk in the short time that I have about remedies and the reasonableness of the remedies which are in this bill for title VII.

The Members will notice that I am not talking about gutting the title VII provisions, because actually the title VII provisions, I will not say they were gutted, but they were tremendously altered by that which you call a civil rights bill, and the gentleman from California [Mr. EDWARDS] when he rose and spoke not too long ago said the Supreme Court had made some mistakes and had changed the civil rights law which had served us so very, very well. Let me tell the Members this, there are no Supreme Court decisions that have suggested that you ought to revert to a tort remedy for damages. That, I think, is the worst of all worlds.

I am arguing much as has already been set forth here, the fairness, the reasonableness of the changes which the proponents of the Hawkins-Kennedy bill are making, the damage which I think they are putting upon the title VII whole remedy.

The Hawkins-Kennedy bill is, I think it is fair to say, a bonanza for attorneys. The American Bar Association, of which I am a member, endorsed it within 3 or 4 days after it had been filed. They knew all about it. It was a bonanza for plaintiffs' attorneys, their being enriched by a change, a change and a gutting of the EEOC and the procedures which, and I quote Mr. EDWARDS, "have served us so very well for all these years."

This is no action by the Supreme Court. This is an action by activists who believe that they have the best way of doing it, but to hear some people talk, if anybody gets up and suggests that maybe the Kennedy-Hawkins bill might be wrong, you feel as though we are doing something to motherhood.

I hope you will give me at least credit for being sincere if not right, but I am an attorney. I sat through with the gentleman from California [Mr. HAWKINS], bless his heart. He is a tremendous man, and many times just the two of us in hours and hours and hours and days and days of hearings, and I have read that bill over, and I have read the cases. I think what we are doing is wrong for America. I do not think it is right for the minorities at all.

Mr. Chairman, we are making a mistake, and I am talking now about the remedies portion. I have my ideas in reference to quotas and so forth and so on. There have been some improvements made there, but we are still coming through with a new cause of action, for instance, that defines an illegal employment practice as having been created any time that race or sex or religion or national origin is a contributing factor to any employment practice, and the employer is allowed no defense to that. It is like strict liability in tort, and you attorneys know

what I am talking about here. Under the new cause of action under section 5 employers are allowed no defense once the plaintiff simply proves that sex, for instance, was a "contributory factor" to any employment practice; it could be a de minimis allegation in regard to discrimination. And the proponents of Hawkins-Kennedy also bring in a 2-year tort statute of limitation, with jury trials, like common negligence cases, to replace the 180 days period now allowed under title VII where you have to file a discrimination complaint with the EEOC. Then these are compensatory damages authorized which brings in mental distress and pain and suffering jury awards. And you have punitive damages authorized, which is defined as "callous indifference to federally protected rights of others."

Somebody tell me what that means. I have found nobody who can tell me what it means.

The purpose of title VII has always been remediation, to get the employee back to work, do it as fast as you possibly can, be able to have equitable remedies that include back pay, and although I do not agree with everything that is in the LaFalce substitute, I believe equitable remedies are, indeed, the way we ought to be going. That has served us well for the last 25 years.

Let me refer in closing here to the remarks of a man who testified before our Education and Labor Committee. It was Jeremy Rabkin, professor of social science from Yale University. He talked about the ghettoes where the black children are having such a tremendously difficult time and what we ought to be really doing, and he says,

Let me be blunt. The approach of a tort remedy for multimillion-dollar recoveries is not merely a disppointment, it is a scandal. The sponors of this legislation are not even proposing to throw money at the problems in the well-meaning and naive fashion of the Great Society programs. Instead, they propose to throw money at lawyers who may be hanging around the remotest periphery of the problems, or at lawyers who are simply hanging around. A generation of inner-city youth is drowning in drugs and violence and despair. Does Congress really have no better idea than encouraging new lawsuits to intimidate employers?

□ 1820

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I want to answer some of the things that we have just heard. We are hearing here that there is something wrong with this bill because there are remedies.

Well, for crying out loud. What kind of rights are there if you do not have any remedies?

We are also hearing there is something radical and new in this bill, these remedies, and lawyers may actually get paid. Astounding.

Well, let me tell Members: First of all, there has been punitive damages for racial discrimination for 20 years under the law, and all we are talking about here is making all discrimination equally treated. Equally treated.

I stand here in this well saying that the bill that came out of the Civil Rights Subcommittee and the Committee on Education and Labor is the bill we should pass without any amendments, because it treats all discrimination equally.

There are going to be amendments offered to cap damages vis-a-vis title VII. What does that really mean? Basically that means sex discrimination. Are we going to treat sex discrimination differently than racial discrimination? I hope not. I hope we are going to treat all discrimination equally.

Let me tell Members one more thing about punitive damages. You do not get punitive damages unless there was intent. It is all equitable, unless there is intent. It seems to me in this country that if there is intent to discriminate, then we certainly should be out trying to assess some kind of punitive damages. Otherwise, someone just assigns it as a cost of doing business.

Now, we heard a Member down here saying the world is made up of competing interests. No, it is not. Unless we pass this bill, a lot of us are not going to be able to compete. That is what this is about. This is not revolutionary, it is restorative. The people pushing this bill are not partisan, they are statesmen. They are trying to get the bill and the law back where it was. It is very important that we do that. I salute the committees in their very hard work. I hope that all Members look at the three pages of nonprofit groups urging us to turn down the substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I would like to talk about quotas, and I would like to tell Members a story about a business in my district.

Imagine a business back in the year 1971, a fish processing company. Imagine that that business is a leader in minority hiring, that 52 percent of their unskilled positions are held by minorities. Imagaine further that 24 percent of their skilled positions and management positions are held by minorities. Imagine further that the minority percentage of the population in the area is 10 percent.

Then imagine that the Government in 1971, in a class of plaintiffs, take this business to court and alleges and claims there is a presumption of discrimination because of the difference between the 52 percent figure for minorities in unskilled positions and the 24 percent in skilled positions, a presumption of discrimination in skilled position hiring.

No individual acts of discrimination are alleged. While unfair hiring practices are alledged, there is no causal link stated between such hiring practices and the statistics.

Imagine that this litigation goes on for 19 years, with millions of dollars of attorney's fees. Imagine finally that the Supreme Court says hey, wait a minute. Statistics without a causal link to unfair practices, that is not enough. You cannot say there is a presumption of discrimination, or otherwise we would end up with hiring by statistics. We would end up with quotas.

Well, that is not imagination. That is the real thing. That is what happened to the Ward's Cove Packing Co. in my district.

The proponents of the bill, and the bill contains some very good points, some good provisions, but among the provisions the proponents say they want to completely reverse the Ward's Cove Packing Co. case. Of course, they say they do not want quotas, but because they allow a presumption of discrimination without a causal link between the statistics and the practices, and because of the unlimited damages, that is what is going to happen.

What about this business in my district? What will they do if this provision in the bill becomes law? To comply with the law they will have to do one of two things: they will have to either bring their hiring of minortiies in skilled management positions up from 24 percent to 52 percent, which would get them from the presumption of discrimination. It would also result in hiring people not on the basis of merit. Or they can bring the 52 percent down to 24 percent, institute hiring practices that would result in unskilled minorities, those most in need of jobs, not getting the jobs.

Well, let us focus on people, not numbers. Rights in this country should be for people, not numbers or statistics. We need colorblind opportunity in this country, not quotas. We need to empower people, not have quotas.

Mr. Chairman, I urge that this House support the LaFalce substitute so that we can have real civil rights and not quotas.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the Civil Rights Act of 1990 and in opposition to the Michel substitute which, I believe, would open a huge loophole that undermines the purpose of this act. The Civil Rights Act of 1990, makes significant improvements in our efforts to end discrimination and improve em-

ployment opportunities for all Americans. We must not dilute the intentions of this act by allowing employers an out for denying employment to women, racial, ethnic, or religious minorities.

It is clear that Congress must take an active role, indeed the leadership, to end racial, religious, ethnic and gender discrimination which impairs our Nation's ability to guarantee to all citizens the fairness envisioned in the Constitution. We must remember that our rights are protected only if we have the right to sue for them.

In six Supreme Court decisions, decided by the narrowest of margins, we witnessed an erosion of the two most important laws protecting Americans against job discrimination. These decisions weakened the 123 year old civil rights law (section 1981) by getting rid of workers' protection against discrimination after they are hired, including harassment on the job, unjust firings and other unfair job practices. The Court also reversed the 1971 Duke Power versus Griggs unanimous decision, and in so doing, places the burden of proof on the employees who have been victimized by policies unfair to women and minorities. Finally, the Court's decisions gutted the established legal principle that it is always illegal for prejudice to play a part in job determinations including hiring, firing, promotion or demotion. Clearly, Congress must act to restore the protection enjoyed by all Americans prior to these Supreme Court rulings.

I am particularly interested in the provisions of this measure which deal with challenging employment practices that have a disparate effect on women or minorities. H.R. 4000 seeks to return the burden of proof to the employer to prove that an employment practice which results in a disproportionate number of women and minorities hired is required by business necessity. This section further defines a "business necessity" as bearing "significant relationship to successful performance of the job."

Today more than 50 percent of all American families living below the poverty level are headed by women. Women earn on average only 65 percent of their male counterparts. Seventy-one percent of women in the work force are there because of economic necessity. We must recognize the significance of this situation. Working women and minorities must not be denied access to employment opportunities.

I am opposed to the language of the LaFalce substitute which defines "business necessity" as a practice that "has a manifest relationship to the employment in question or that the employers legitimate employment goals are significantly served by, even if they do not require, the challenged practice. This definition would seriously impair the ability of women and minorities to challenge unfair hiring practices. We have documented the problems that face women and minorities in our workforce. Wage disparities, unemployment, and occupational segregation are the realities of the American workforce for more than half of our workforce. We cannot allow employers to exercise unfair hiring practices simply because they don't want to make the effort to be fair.

I urge my colleagues to oppose the LaFalce substitute and to support H.R. 4000, the Civil Rights Act of 1990, with no weakening amendments so that Congress sends a clear message that discrimination against women and racial, ethnic, or religious minorities in the workplace will not be tolerated. We must continue our efforts to ensure all Americans are guaranteed equal employment opportunities.

□ 1830

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], who along with the gentleman from Illinois [Mr. FAWELL] and the gentleman from Texas [Mr. WASHINGTON], probably spent more time setting this legislation than the rest of the committee.

Mr. GUNDERSON. Mr. Chairman, first of all I want to begin by saying thank God the tensions are beginning to lower a little bit around here. I was beginning to think that we were going to have to take a time out and ask everybody to stand up and shake hands with their neighbor and say it is okay to be friends. You know, we had the military fights over here in the 1980s, and everybody got up on the democratic side of the aisle and said you can be against an increase in defense and still be for national security, and you are right. And we had the flag debate a little while ago, and you know what, you can be against the flag amendment and still be patriotic.

Well now, can we also agree this afternoon that you can have different philosophies about how to achieve through law civil rights and equal opportunity for everybody without somehow being anti-civil-rights or being a racist or something like that?

Let us understand what is in front of us. We have the Kennedy-Hawkins bill, and we have the bipartisan substitute. Will everybody please begin by understanding that both options overturn five Supreme Court cases. Both options overturn five Supreme Court cases. It is not like the alternative here today is to say no to progress or that business as usual is OK.

But let us get into some of the specifics. Both overturn Wards Cove. The difference is that the bipartisan substitute says in terms of business necessity that you have to have a manifest relationship to the employment in question. It cannot be, as the Kennedy-Hawkins bill says, significantly related to successful job performance.

Now what that means is if you are the best person for the job, that does not count. It has got to be whether or not you are significantly related to successful job performance.

In terms of group practices we find the same situation. The bipartisan substitute says that you can list group practices when you are going after intentional discrimination, but you have to list what each of the practices within that group shows as intentional discrimination. Kennedy-Hawkins just says list them, and let the defendant try to figure out which one of those is the one we are talking about.

Now both options in front of Members this evening reverse Price Waterhouse. That is the mixed motives case. Our bipartisan substitute says the mixed motive, the dual motive has to be a major contributing factor, not just a contributing factor, very important in terms of something that may be done or said or at some other time. Does that affect the employment discrimination in question?

Then we get to Martin versus Wilks. Again, both bills overturn Martin versus Wilks. Our substitute says you cannot challenge a consent decree if at the time of settlement you were an employee or an applicant of the firm, or No. 2, you had actual notice that the settlement affects your particular interest. Now the Kennedy-Hawkins bill says that you simply cannot challenge it.

Both bills overturn Patterson regarding section 1981. Both options overturn the Lorance case. So is there agreement here that both options in front of us overturn five Supreme Court cases?

That then really gets down to the question of does or does not the bill impose quotas, and it gets down to the question of litigation.

Justice delayed is justice denied, and anybody who thinks you are going to do something for somebody by sending them as a victim of discrimination into the court system of this country ought to know better. You simply ought to know better.

Take a look at the Wards Cove case. It was filed in 1974, and 16 years later we still do not have a resolution. Price Waterhouse, 6 years later we do not have a resolution. Martin versus Wilks, 15 years; Patterson, 7 years; Lorance, 6 years. We do not do a victim of discrimination a service by putting them into a court system full of litigation, jury trials and see how high we can get the damages so you can figure out how high you can pay the plaintiff's attorney. Come on.

Let us understand that there is a better way, a quicker way to find civil rights for the victim. It is in the bipartisan substitute.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding time.

The question we have is this: What has been the history of antidiscrimination legislation enforcement in this country, because competing pieces of legislation, and it is possible to look at the words in each, and cogitate, and speculate, and say it might mean this or it might mean that. If we were dealing for the first time with antidiscrimination legislation, that is what we would have gone on. But we are dealing with efforts to outlaw bigotry for 30 years and more. We have a record, and the record is overwhelming.

If you have lived in this country, and you have paid attention, you know that discrimination is very hard to attack and very easy to defend. The scarce examples that are conjured up of what might happen are simply contradicted by the record of reality. The overwhelming advantages are on the side of the smart bigots.

Every time we legislate, the Civil Rights Act itself in 1964, the equal rights amendment in the States, we have people now, for instance, saying that oh, the EEOC is fine. Not the people here, but those lobbying for the bipartisan substitute, so called, were the people who told us that the EEOC would wreak terrible havoc on America. Now that it is in place, they retroactively find it okay, because it is useful as a stick with which to beat back efforts to continue our efforts of antidiscrimination.

Every time we deal with antidiscrimination legislation we are presented with horrific examples of what might happen, and it almost never does. Every one of us who lives in this country understands that given the power that racism still has, it is diminishing and we are winning that fight, but slowly, given the power that racism still has, given the advantages that go with the territory when you have to meet a burden of proof, given the difficulty of looking in people's minds, discrimination continues to be hard to defend.

If we pass H.R. 4000 we give those who are discriminated against a better chance. If we pass the substitute, we do not make it harder for them; yes, it is an improvement, but it is not nearly the improvement that a commitment to our moral principles requires.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

□ 1840

Mr. MCCOLLUM. All of us here are opposed to discrimination in the employment place. There is no question about that. The issue is whether or not the bill that is before us is going to cause quotas or whether it is going to cause an enormous amount of cost in litigation for the employer unnecessarily.

And I would submit to you that as a practical matter it does cause quotas. That is the issue why we need to adopt the LaFalce substitute.

I would like to give you an example from a column of James Jackson Kilpatrick, a column of a few weeks ago. He says,

> Let us suppose that 1,000 plumbers are available in a given city. Of these, 200 are black. The ABC Corp., a large plumbing contractor, regularly employs 100 plumbers. They are hired if they have graduated from a trade school, have one year of experience, and can present satisfactory references during an interview.
>
> Along comes Joe Johnson, a black applicant who has not graduated from a trade school and has only six months of experience. He applies to ABC and is turned down. He sues, charging that ABC's hiring policies have had a "disparate impact" upon the black community. Instead of having 20 minority plumbers, the company has only 10.
>
> On this evidence the company stands guilty as charged. The employer is now subject to heavy damages. The rejected applicant "shall not be required to demonstrate which specific practice or practices result in such disparate impact." On the contrary, it is up to the employer to prove that all of his conditions are "essential," that they are required by business necessity—that is, that the requirements bear a "substantial and demonstrable relationship" to effective job performance.
>
> Such a burden of proof would be formidably difficult to establish in court. Is a trade school certificate necessary? Is a year's experience too much to require? Are references a matter of subjective decision that could be racially biased?
>
> Defending Johnson's suit is expensive, not only in lawyers' fees but also in the time of executives who must be taken from their regular duties. Johnson, of course, has a lawyer who works on a contingent basis.
>
> What is the ABC Corp. to do? People who live in the real world know exactly what ABC will do, will drop 10 white plumbers and hire 10 black plumbers (never mind their education, experience or references), and its payroll will then meet the 20 percent minority quota. There will no longer be a demonstrable "disparate impact."

But there will then, as a practical matter, be an imposition of quotas. That is the problem with the bill as it now stands. The LaFalce substitute will amend that, change that, still remedy the issue presented to us by the Supreme Court that we need to change.

I urge my colleagues, in looking at this, to look at it rationally. All of us want no discrimination in the employment place. But I think if we are going to as a practical matter avoid quotas being brought into place and avoid high litigation costs that the unnecessary provisions of this bill would impose, we have to adopt the sensible approach today, and that is the LaFalce substitute.

Mr. Chairman, I urge my colleagues to do it.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, H.R. 4000, the Civil Rights Act of 1990, all boils down to equality and justice.

We need not rehash our Nation's history of racial discrimination in employment that gave rise to Federal statutes such as section 1981, passed in 1866, and title VII of the Civil Rights Act of 1964. It is clear, though, that they were passed because of the undeniable pervasiveness of job related discrimination.

Mr. Chairman, five recent decisions by the Supreme Court have gutted the 1964 Civil Rights Act to the extent that that act is not now able to singlehandedly eliminate employment discrimination. These decisions and actions of the Reagan court and administration have brought about a resurrection of these problems. This is well known and equally disturbing. Race, as well as gender, religion and national origin, regrettably figure in management's decisionmaking regarding hiring, promotions, layoffs, firings and day-to-day operations.

Such practices are absolutely intolerable. In this country we speak frequently about "equality." What is the word "equality" worth if it only applies in theory? What are employment protections worth if they are unenforceable? What are judicial remedies worth if they are obstructed with impenetrable barriers? Nothing. Absolutely nothing, but to give hope of fairness where there really is none, and the charade of democratic practices where they do not actually exist.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have concluded through our oversight investigations that for women and minorities there is only an illusion of professional and business equality. I can say unequivocally that despite all the laws passed by this body to eliminate discrimination in the workplace and to improve the economic well-being of minority business, the dreams of true opportunity for minorities and women are too often dreams deterred. My subcommittee found after a 2-year investigation of the airline industry, for instance, that the industry continues to deny opportunities to black pilots, managers, and other professionals. Minority and female airline employees are disproportionately concentrated in low-wage, low-skill positions. Few have been able to become vice presidents and members of the board. The industry remains a bastion of white male domination.

That fact holds true for all of corporate America. We see it in the media, in the television and movie and in industry, in the electronics industry, in

the pharmaceutical industry, ad infinitum.

The same picture even emerges, with respect to employment trends and practices of cultural institutions receiving Federal funds. In an investigation of the Smithsonian which my subcommittee recently completed, we found that in the Smithsonian's 142-year history, there has been only one minority assistant secretary. Today, none of the Smithsonian's 7 assistant secretaries is a minority, and of 15 bureau directors there are only 2. That same minority underrepresentation extends to curators, researchers, as well as the Smithsonian's Board and its many committees and councils.

In the procurement area, minority and women-owned firms enjoyed very limited participation. Despite set-aside provisions and laws to encourage subcontracting to minorities and women, we find that opportunity for these groups falls typically in areas such as janitorial and food service. We minorities and women, have many capable construction and high-technology firms that simply are not getting the opportunity to compete.

The Supreme Court engaged in unprecedented judicial activism last year when it curtailed well-established rights and remedies under section 1981 and title VII. Previous Court decisions were haphazardly overruled and new interpretations were carelessly expounded. The net result is that the Court disregarded both the letter and the spirit of Congress' efforts, thus doing damage to the legitimate rights of millions of Americans. I believe the Court simply made a mistake.

Today is a historic occasion in the House of Representatives. Today, we have the opportunity to restore several essential rights and fashion a nondiscrimination ethic for American business that cannot be ignored.

To begin with, in 1866, Congress only recognized discrimination in hiring. However, it is clear today that such improprieties arise in other aspects of employment. H.R. 4000 would reverse Patterson versus McLean Credit Union on this point.

Second, in the Wards Cove case, the Court overturned its decision in the earlier Griggs case by shifting the critical burden of proof from the employer to the employee to prove that the employer has a reasonable justification for discriminating. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decisions. H.R. 4000 would restore the Griggs decision by returning the burden of proof to the employer.

Third, there is clarification of what is a business necessity for purposes of justifying a discriminatory practice. This definition is necessary so that an employer cannot arbitrarily justify actions as a business necessity when the primary motivation is a discriminatory one.

Fourth, in Lorance versus AT&T, the Court stated that the statute of limitations begins to run when a discriminatory practice is initiated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and is affected by it. That should be the time when the statute of limitations begins to run, and H.R. 4000 adopts that policy.

Fifth, in Price Waterhouse versus Hopkins, the Court allows intentional discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists have not found a way to analyze genuine priorities of thought inside the mind of a business administrator. How do we really determine whether discrimination was a primary factor? H.R. 4000 makes it clear that intentional discrimination is never acceptable, whether as a primary factor or otherwise.

Finally, to aid in enforcement, H.R. 4000 stipulates that compensatory and punitive damages, as well as attorney's fees, are available in certain appropriate situations.

To those critics who suggest that this bill goes too far, I suggest that they consider the issue from the other point of view. If they were subject to racial, gender or age discrimination in getting or maintaining a job, I believe that they would be very supportive of H.R. 4000. It is easy to oppose a measure for equality when one cannot fathom the effects of discrimination against oneself. To those critics, I ask simply that the fundamental American principles of equality and justice be upheld irrespective of the extra sheets of paper that it take to do so.

Mr. Chairman, H.R. 4000 sets forth a fair and workable mechanism to protect the employment rights of all Americans. I urge my colleagues to support this bill and defeat all weakening amendments.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished and able Member, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to pay tribute, in beginning my remarks, as others have done as well, to my very distinguished colleague, the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor, for whom this legislation is another very fitting tribute to the more than half century of marvelous public service that he has provided to this country.

Mr. Chairman, for those of us whose politics were forged in the 1960's, there are no issues that define more what America means and what ideals America should stand for than civil rights. The fact of the matter is, Mr. Chairman, over the course of the past generation, this country has made consistent programs on a bipartisan basis in historical civil rights strides with regard to the range of civil rights laws that were passed in the 1960's.

Mr. Chairman, I had the thrill 25 years ago of sitting in the gallery of this Chamber as a student when President Lyndon Johnson stood before this House, addressed a joint session of Congress, announcing voting rights legislation in 1965.

Whether it was the civil rights legislation of 1964, the voting rights legislation of 1965, those bills define what America stands for at its best. The fact that all people were to be included in the opportunities of our society, the fact that people, regardless of race, regardless of gender, were going to be given a stake in society in which we all share.

Unfortunately, Mr. Chairman, what we have seen cloaked in the language of judicial conservatism has been some of the most extreme form of judicial activism in the late 1980's in reversing the progress that we made as a nation throughout the 1960's and 1970's.

Mr. Chairman, this legislation, unamended, will reverse what the Supreme Court has done in the late 1980's, in order to restore what we thought we were doing as a Nation in the 1960's. Nothing is more important to us as a society with liberty and justice for all.

Mr. Chairman, I urge you to defeat the weakening amendment and support the legislation.

Mr. Chairman, today we are dealing with unfinished business. When this distinguished body passed the Civil Rights Act of 1964 it should have been clear that America would no longer tolerate discrimination of any kind. After the Griggs ruling, and the Martin versus Wilks ruling it should have been clear that the practice of discrimination in employment and hiring was no longer acceptable in our great land of freedom and equality. Apparently that was not the case.

Last year, the Reagan appointees joined other conservatives on the Supreme Court to begin the process of unraveling the mosaic of laws protecting Americans from discrimination in employment.

Congress must not let that happen. It is up to us to stop this assault on the civil rights of all Americans. It is up to us to stand up for the millions of Americans whose basic freedoms are now jeopardized by the Supreme Court.

Opponents of this legislation have raised the specter of quotas. This is absurd. This is not a quota bill. It specifically rejects the use of quotas.

I understand the concern of many of my colleagues about quotas. I know that quotas

can be used to discriminate. I would not be here speaking on its behalf if it were a quota bill. This is a smokescreen opponents of this bill are using to hide their opposition to overturning the Supreme Court ruling.

Everything in this bill is consistent with what the United States stands for. This is the one opportunity we will have to make a strong statement in favor of protecting the rights of women, minorities, the disabled, and others who have been discriminated against for too long.

I urge my colleagues to uphold the principles on which this great Nation was founded: equality, freedom, justice. Let us affirm the rights of everyone living under our Constitution, regardless of race, regardless of gender, regardless of ability or religion.

I urge you to join me in rejecting the Republican substitute and in passing the Civil Rights Act of 1990. Let us finish our unfinished agenda.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to speak to the issue of whether the LaFalce substitute violates the Constitution by not providing for a jury trial. I believe the LaFalce bill is unconstitutional.

The seventh amendment to the U.S. Constitution states:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved * * *.

This language immediately invokes the common law difference between suits in law and suits in equity. Jury trials are required for suits at common law; they are not for suits in equity. Here is how that distinction has played out in the discrimination area.

Title VII of the Civil Rights Act of 1964 does not provide for jury trials, and the Supreme Court has never held that they are required. Almost all the lower courts have held they are not required. The relief available under title VII is provided in the following language:

The court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate to which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay . . . or any other equitable relief as the court deems appropriate. 42 U.S.C. section 2000e-5(g).

The Supreme Court had the jury question before it in *Curtis* v. *Loether,* 415 U.S. 189 (1974). The case dealt with whether a jury trial was required under title VIII, the fair housing provision of the Civil Rights Act. Justice Thurgood Marshall held, for the Court, that a jury trial was required, and contrasted this case with title VII:

We need not, and do not, go so far as to say that any award of monetary relief must necessarily be 'legal' relief. * * * A comparison of Title VIII with Title VIII of the Civil Rights Act of 1964, where the courts of appeals have held that jury trial is not required in an action for reinstatement and backpay, is instructive, although we of course express no view on the jury trial issue in that context. In Title VII cases the courts of appeals have characterized backpay as an integral part of an equitable remedy, a form of restitution. . . . In Title VII cases, also, the courts have relied on the fact that the decision whether to award backpay is committed to the discretion of the trial judge. There is no comparable discretion here: if a plaintiff proves unlawful discrimination and actual damages, he is entitled to judgment for that amount.

The test, according to the Supreme Court, in this opinion by Justice Marshall, seems to have two prongs. First, is the relief an "integral part of an equitable remedy" such as restitution? Second, is there discretion vested in the trial judge?

Look again at the language of the LaFalce substitute:

The court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds that—(a) an additional equitable remedy beyond those otherwise available is needed to deter the respondent from future violations of this title; and (b) such an award is otherwise justified by the equities.

In order to grant the relief, the trial court has to exercise judgment. Relief is not automatic upon proof to exercise judgment. Relief is not automatic upon proof of damage. Furthermore, the finding the judge must make is quite particular. In clause (a), the judge must find that awarding this relief is necessary to deter the respondent from future violations.

The respondent may not be ordered to pay unless the judge finds that is necessary to prevent the respondent from future harassment or other discriminatory conduct. If it is clear the respondent will not discriminate again, the judge may not order the remedy. Hence, it is the future likely conduct of the respondent, not the damage felt by the employee, that triggers relief.

Injunctions are equitable relief. In an injunction, the court orders a respondent to do something or to stop doing something. In the LaFalce substitute, the respondent is ordered not to discriminate again, and, if necessary to make that happen, the judge can make the respondent know the judge is serious—by requiring the respondent to pay up to $100,000.

The two-prong test by Justice Marshall could thus not be more clearly met. The remedy is an integral part of an equitable remedy, namely the relief of injunction—don't do this—and the judge has to exercise discretion.

One other factor is suggested in *Lorillard* v. *Pons,* 434 U.S. 575 (1978), where the Supreme Court decided that a jury trial was necessary under the Age Discrimination Act, even though it had never held a jury trial was required in title VII. Once again, Justice Marshall wrote for the Court. He focused upon "the remedial and procedural provisions of the two laws that are crucial and there we find significant differences." The Age Discrimination Act had used the procedures of the Fair Labor Standards Act, not title VII. This was significant to the Court.

Once again, the analogy is direct. Section 1981, which was at issue in Patterson versus McLean, allows for jury trials for damages for racial discrimination. It is quite different procedurally from title VII. There is no EEOC, there is no mandated agency review, there is no explicit grant of discretion to the judge, as there is in title VII. The LaFalce substitute, of course, is not only modeled on title VII; it is an amendment of title VII. Thus, if it has been constitutional to deny a jury trial under title VII for these past 26 years, it is constitutional to continue to do so under title VII as amended by LaFalce. Quite a different case would be presented where section 1981 to be amended—but that route was explicitly not followed by either H.R. 4000 or the LaFalce substitute.

Lastly, attention has been drawn to a letter drafted for Senator KENNEDY by Steve Sussman, a well-known plaintiff's attorney in Houston. Mr. Sussman reaches the conclusion that a jury trial must be required under the Kassebaum proposal, which, on this point, is identical with LaFalce.

Obviously, good lawyers can disagree on a point. It is important, however, that the Sussman analysis pays no attention to the fact that the remedy can only be ordered if the judge finds it is necessary in order to compel the respondent not to discriminate in the future. The case on which Mr. Sussman relies is *Ross* v. *Barnard,* 396 U.S. 531 (1970). Here is the quotation from that decision which he provides:

The "legal" nature of an issue is determined by considering first, the premerger [of the courts of law and equity] custom with reference to such questions; second, the remedy sought; and third, the practical abilities and limitations of juries.

To this test, one can only say, "Exactly!" Before the courts of law and the courts of equity were merged, injunctions were heard only in the courts of equity. And, as analyzed above, the LaFalce substitute provides for relief in a form most closely analogous to an injunction.

Point two—the remedy sought is the cessation of the practice; for it is only if the $100,000 remedy is necessary to force the respondent not to discriminate again that the court can award the remedy. Once again, this is equity—it is forcing a party to do or not to do something.

Point three—just consider the practical limitations on juries. How are they to determine whether making the

respondent pay up to $100,000 is necessary to force him or her to stop? That kind of decision has always been made by a judge; it is the most typical kind of decision we vest in a judge who sees many different defendants and can judge what it takes to effect their conduct, rather than in a jury that sees only one defendant.

It is exceptionally clear that the relief provided in the LaFalce substitute is equitable in nature, and thus no jury trial is required under the seventh amendment to the Constitution.

□ 1850

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I want to remind this body, the last time this Congress dealt with discrimination and employers, and it was in the Immigration Act when we instituted employer sanctions, and do Members know what happened when we instituted employer sanctions? Well, we caused discrimination.

The GAO report, as part of the Immigration bill, said that 20 percent of all employers in this country were discriminating, primarily against Hispanics, primarily against Asians or any person that looked foreign, any person that was not, perhaps, blond and blueeyed. So that is the record of this Government in protecting discrimination.

Then we went ahead and had the Reagan years, and we deregulated savings and loans, we deregulated banking and airlines, and then we tried to deregulate people with the Supreme Court decisions, setting back the Civil Rights Acts of many years past. So we are here today to reverse those wrongs and to simply say that one of the basic functions of government is national defense, but it is also to protect people that cannot defend themselves, that do not have those business lobbies running around and saying, in an era of unprecedented growth, economic growth in this country, the error of greediness of the 1980's, where business had it all, tax cuts, growth, prosperity, and now they also want to discriminate against people.

We cannot have a Congress and a President that says it is wrong, and that we are going to say no, and that we are going to proceed with a good simple bill that does not have quotas and protects people. I hope this House passes this bill without any kind of amendments that dilute what this country has stood for.

Mr. Chairman, today the House will consider one of the most important and historic pieces of legislation, the Civil Rights Act of 1990. Why do we need this legislation after more than 25 years under the Civil Rights Act of 1964? Because last year, the Supreme Court made several decisions that severely cut back on the effectiveness of existing civil rights laws. It is time for Congress to replace the balance of fairness, integrity, and equality of opportunity diminished by those decisions.

As a Hispanic, I cringed at the thought of how those decisions would affect minorities who have for so long fought to receive fair and just treatment in the workplace. In essence, the Supreme Court found that it is OK for employers to discriminate, as long as they have a good lawyer! One of the decisions involving the Wards-Cove case shifted the burden of proof of discriminatory practices onto the plaintiff. Employers who wish to engage in intentional discrimination in the hiring, promotion, or discharge of an employee can now prevail merely by establishing that an otherwise discriminatory motive was accompanied by a legitimate business reason. We cannot allow such crippling blows to the statutory framework designed to protect our work force.

Of course, everyone wants to be viewed as a champion of civil rights, but actions speak louder than words. President Bush has indicated he will veto this bill as drafted and labels it a quota bill. Mr. Chairman, we have an obligation to eliminate discrimination in the workplace and everywhere, and we should not be compromising in this effort. I urge my colleagues to join me in support of the Civil Rights Act of 1990.

WHAT'S WRONG WITH THE MICHEL/LAFALCE REPUBLICAN SUBSTITUTE

H.R. 4000, the Civil Rights Act of 1990, overturns last year's Supreme Court decisions interpreting federal civil rights protections prohibiting discrimination in the workplace. The Michel/LaFalce substitute would codify the most objectionable aspects of those decisions. Specifically, Michel/LaFalce:

I—provides that under Title VII victims of intentional gender, religious, or national origin discrimination could not recover damages in any cases in which back pay may be awarded. However, no such limitation applies to victims of intentional racial discrimination under a separate federal statute, who may receive both compensatory and punitive damages.

II—provision of a so-called $100,000 "equitable relief" provision is clearly unconstitutional because it violates the constitutional right to a jury trial in damage cases under the Seventh Amendment.

III—fails to prohibit discrimination with respect to the "terms and conditions" of an employment contract, thereby codifying the decision in Patterson that the federal civil rights statute known as Section 1981 prohibits discrimination only in hiring, but not once the employee has begun working.

IV—codifies the weakened "business necessity" test in *Wards Cove* that employers may justify discriminatory employment practices as "serving any business purpose" rather than adopting the unanimous 1971 decision in Griggs that discriminatory practices be "significantly related to successful job performance."

V—insulates from challenge employment practices which are made partly on the basis of race or gender because plaintiffs would have to establish that race or gender was a "major contribution factor" in the employment decision.

VI—fails to provide successful plaintiffs with the right to be reimbursed for time expended in successfully defending the relief they obtained from an employer against collateral attacks.

GROUPS OPPOSED TO THE MICHEL/LA FALCE REPUBLICAN SUBSTITUTE TO THE CIVIL RIGHTS ACT OF 1990

Leadership Conference on Civil Rights.
American Civil Liberties Union.
American Federation of Labor—Congress of Industrial Organizations.
American Federation of State, County & Municipal Employees, AFL-CIO.
International Union of United Automobile Workers.
League of Women Voters.
Mexican American Legal Defense and Education Fund.
National Association for the Advancement of Colored People.
NAACP Legal Defense and Educational Fund, Inc.
National Council of Churches.
National Council of La Raza.
National Council of Negro Women.
National Education Association.
National Organization for Women.
National Urban League.
National Women's Political Caucus.
People for the American Way.
Southern Christian Leadership Conference.
Union of American Hebrew Congregations.
United Steelworkers of America.
Women's Legal Defense Fund.
American Bar Association.
National Association of Counties.
National Bar Association.
National Black Caucus of State Legislators.
National Black Republican Civil Rights Task Force.
National Conference of Black Mayors, Inc.
U.S. Conference of Mayors.
Actors Equity.
African Methodist Episcopal Church.
African Methodist Episcopal Zion Church.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Amalgamated Clothing & Textile Workers of America.
American Association for Affirmative Action.
American Association of Retired Persons.
American Association of University Women.
American Baptist Churches, USA—National Ministries.
American Ethical Union.
American Federation of Government Employees.
American Federation of Teachers.
American Jewish Committee.
American Jewish Congress.
American Postal Workers Union, AFL-CIO
American Society for Public Administration.
American Veterans Committee.
Americans for Democratic Action.
American Nurses Association.
Anti-Defamation League of B'nai B'rith.
A. Philip Randolph Institute.
Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Association of Junior Leagues International.
Associated Actors and Artistes of America, AFL-CIO.
Association for Women in Science.
Building & Construction Trades Department, AFL-CIO.
Center for Community Change.
Children's Defense Fund.

Church of the Brethren—World Ministries Commission.
Church Women United.
Citizenship Education Fund.
Coalition of Labor Union Women.
Common Cause.
Communications Workers of America.
Delta Sigma Theta Sorority.
Disability Rights Education & Defense Fund.
Division of Homeland Ministers—Christian Church (Disciples of Christ).
Epilepsy Foundation of America.
Episcopal Church—Public Affairs Office.
The Evangelical Lutheran Church in America.
Federally Employed Women.
Federation of Organizations for Professional Women.
Food & Allied Service Trades, AFL-CIO.
Friends Committee on National Legislation.
Frontiers International, Inc.
Frontlash.
Hadassah, Women's Zionist Organization of America.
Hotel and Restaurant Employees and Bartenders International Union.
Improved Benevolent & Protective Order of Elks of the World.
Industrial Union Department, AFL-CIO.
International Association of Black Professional Firefighters.
International Association of Machinists and Aerospace Workers.
International Association of Official Human Rights Agencies.
International Ladies' Garment Workers' Union of America.
International Molders & Allied Workers Union.
International Union of Electrical, Radio & Machine Workers.
International Union of Operating Engineers.
Iota Phi Lambda Sorority, Inc.
Human Rights Campaign Fund.
Japanese American Citizens League.
Jewish Labor Committee.
Jewish War Veterans.
Kappa Alpha Psi Fraternity.
Labor Council for Latin American Advancement.
Labor Zionist Alliance.
Lawyers' Committee for Civil Rights Under Law.
Mennonite Central Committee.
Mental Health Law Project United Cerebral Palsy Association, Inc.
Na'Amat USA.
National Alliance of Postal & Federal Employees.
National Alliance of Postal & Federal Employees—National Women's Auxiliary.
National Association for Equal Opportunity in Higher Education.
National Assocation of Americans of Asian Indian Descent.
National Association of Colored Women's Clubs, Inc.
National Association of Commissions for Women.
National Association of Community Health Centers.
National Association of Human Rights Workers.
National Association of Market Developers.
National Association of Negro Business & Professional Women's Clubs, Inc.
National Association of Social Workers.
National Association of University Women.
National Association of Women Federal Contractors.
National Black Republican Civil Rights Task Force.
National Business League.
National Community Action Agency Executive Directors Association.
National Community Action Foundation.
National Conference of Christians and Jews, Inc.
National Congress for Community Economic Development.
National Congress for Puerto Rican Rights.
National Congress of American Indians.
National Council of Jewish Women.
National Federation of Business and Professional Women's Clubs.
National Federation of Temple Sisterhoods.
National Federation of Temple Youth.
National Gay & Lesbian Task Force.
National Hispanic Housing Coalition.
National Image.
National Institute for Employment Equity.
National Jewish Community Relations Advisory Council.
National Jewish Welfare Board.
National Legal Aid & Defender Association.
National Low Income Housing Coalition.
National Neighbors.
National Newspaper Publishers Association.
National Parent Teacher Association.
National Post Office Mail Handlers, Watchmen, Messengers & Group Leaders.
National Puerto Rican Coalition.
National Rainbow Coalition.
National Sorority of Phi Delta Kappa, Inc.
National Urban Coalition.
National Women's Law Center.
9 to 5, National Association of Working Women.
Oil, Chemical & Atomic Workers International Union.
Older Women's League.
Omega Psi Phi Fraternity, Inc.
Opportunities Industrialization Center.
Organization of Chinese Americans, Inc.
Organization of Pan Asian American Women.
Phi Beta Sigma Fraternity, Inc.
Potomac Institute.
Presbyterian Church (USA), Washington Office.
Project Equality, Inc.
Project on Education/NOW Legal Defense and Education Fund.
Wholesale & Department Store Union, ALF-CIO.
Service Employees International Union.
Sigma Gamma Rho Sorority, Inc.
Spina Bifida Association of America.
Synagogue Council of America.
Transport Workers Union of America.
Unitarian Universalist Association.
United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada, AFL-CIO.
United Church of Christ—Commission for Racial Justice Now.
United Church of Christ—Office for Church in Society.
United Farm Workers of America, AFL-CIO.
United Food and Commercial Workers International Union.
United Hebrew Trades.
United Methodist Church—Board of Church and Society.
United Methodist Church—Board of Global Ministries Women's Division.
United Mine Workers of America.
United Rubber, Cork, Linoleum & Plastic Workers of America.
United States Catholic Conference.
United Synagogue of America.
U.S. Student Association.
Voter Education Project, Inc.
Women in Communication.
Women's American ORT.
Women's International League for Peace and Freedom.
Women's Workforce—Wider Opportunities for Women.
Workmen's Circle.
Young Women's Christian Association of the USA, National Board.
Zeta Phi Beta Sorority, Inc.

Mr. GOODLING. Mr. Chairman, I wish those in power on the other side would deregulate their membership.

I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS] a distinguished member of the Committee on the Judiciary and the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, the test that we are put to for the next day or two is to determine whether America is going to move forward out of the past that was characterized by the lack of enforcement, by the lack of adequate remedies, for civil rights measures. I think that is what puts the committee bill in such sharp contrast with the substitute.

It would be nice for everyone in the Congress to know that they would not be judged how they vote on this substitute. That would be the best of all worlds. But unfortunately, Members are going to be judged by whether they vote for the Hawkins-Edwards measure or whether they vote for the substitute. That is what we are here for. We are going down in history.

For anyone to suggest that the gentleman from California [Mr. HAWKINS] and [Mr. EDWARDS] represent a zealot's view of civil rights, is to know these gentlemen at all. That is the only thing I can say about that kind of characterization. These are the two most thoughtful, moderate civil rights advocates that we have ever seen in the Congress.

Then there is the question of the Kilpatrick hypothetical of an untrained, unprepared, black apprentice, applying for a job that is going to lock out 10 other whites because they do not want to fight the lawsuit. I want to point out, the one single reason why the gentleman from Florida [Mr. MCCOLLUM] is totally incorrect in asserting that kind of hypothetical is that because in the last 18 years of Griggs, no person has ever raised the charge of being forced to adopt quotas. I urge Members to stick with the committee bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in strong support of the bipartisan substitute, which I believe is a vast improvement over both the legislation (S. 2104) that recently passed in the other body and the version approved by the House Judiciary Committee (H.R. 4000).

The substitute would strengthen the current federal law prohibiting employment discrimination without favoring either employers or employees and, most importantly, without requiring employers to establish quotas. Under the current language of H.R. 4000, employers will be pressured to select the safest means to protect against potential discrimination claims—and that will be to establish a quota system for both hiring and promotion. Instead, the substitute relies on and strengthens the existing conference, conciliation and early settlement processes through the Equal Employment Opportunity Commission. The substitute would overrule the Wards Cove decision by clearly shifting the burden of proof to an employer once a prima facie case of discrimination has been established in a disparate impact case. See. *Wards Cove Packing Company, Inc.* v. *Antonio,* 109 S.Ct. 2115 (1989). However, unlike the committee version of H.R. 4000, an employer could rebut that prima facie case if he can show the challenged employment practice has a "manifest relationship to the employment in question", or that "legitimate employment goals are significantly served" by the challenged practice or group of practices. Thus, the substitute utilizes the exact language of the holdings in *Griggs* v. *Duke Power Co.,* 401 U.S. 424, 432 (1971) and *New York City Transit Authority* v. *Beazer,* 440 U.S. 568 (1979).

The substitute is also a tremendous improvement on the remedies issue. The committee-approved bill would encourage counterproductive litigation in workplace disputes by allowing damages for pain and suffering punitive damages and jury trials. Instead the LaFalce-Michel-Goodling substitute would continue the current system of back pay and injunctive relief. In addition, the substitute would establish a new equitable relief remedy where a judge, rather than a jury, could award equitable damages to deter future unlawful conduct. This remedy would only be available in cases where no back pay can be awarded. Equitable damages up to $100,000 would be permitted in these cases to deter intentional discrimination in the future. The provision also allows a claimant to seek immediate injunctive relief in a Federal court to stop intentional violations of title VII.

The substitute also contains other significant changes in civil rights law. For example, the much criticized decision in Patterson case is overruled so as to make it clear that 42 U.S.C. 1981 applies to on-the-job racial harassment. *Patterson* v. *McLean Credit Union,* 109 S. Ct. 2363 (1989). The substitute also contains language dealing with *Price Waterhouse* v. *Hopkins,* 109 S. Ct. 1775 (1989) and *Martin* v. *Wilks,* 109 S. Ct. 2180 (1989).

Mr. Chairman, when the Judiciary Committee considered this legislation, I offered an amendment that would have made all the changes in current law contained in H.R. 4000 prospective only. I argued, at that time, that it was simply not fair to "change the rules in the middle of the game" for parties already in proceedings before the EEOC or for litigants already in court. It is simply not fair to retroactively affect cases pending before a Federal administrative agency or in the courts. Both the commitee bill and the substitute overrule numerous aspects of Supreme Court holdings. There may or may not be good policy reasons to change those decisions, but it is completely unfair to change the outcome of cases already filed, where the parties reasonably relied on those Supreme Court decisions as the "law of the land". My amendment lost in the Judiciary Committee by the narrowest of margins on an 18-18 tie vote.

Therefore, I am particularly gratified that the LaFalce-Michel-Goodling substitute adopts my prospective approach on effective date. Section 13 of the substitute makes it clear that this act and the amendments made by this act take effect on the date of enactment. Furthermore, Section 13(b) states that "the amendments made by this act shall not apply with respect to claims arising before the date of enactment * * *."

Mr. Chairman, this substitute offers the House of Representatives an opportunity to enact a landmark civil rights bill that is both fair and pragmatic. It does away with the negative aspects of Wards Cove and Patterson without necessitating quota systems or creating a plantiffs' lawyers paradise. We already know that H.R. 4000 in its current form would prompt a Presidential veto. The LaFalce-Michel-Goodling substitute offers us a positive alternative. It is a bill that effectively deters future discrimination in the workplace and it is a bill that President Bush can and will sign. I urge an "aye" vote.

□ 1900

Mr. HAWKINS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, what an honor it is to participate in this debate. There are so many great things about our country, all the freedoms that we have, speech, religion, the right to vote and choose our leaders, and of course our greatness lies in our mobility, our upward mobility, the ability of each and every one of us, regardless of the circumstances of our birth, to rise in American society, to pursue our individual dreams.

Mr. Chairman, we may not fulfill that dream due to our own shortcomings, and government cannot help us with that. Some may want to be an opera singer; others, a star baseball player; others, the first violinist in a symphony. We may not make that dream because of our own limitation, and government cannot help us there.

However, Mr. Chairman, government needs to make sure of one thing, that the reason our dream fell through, that the reason we could not live up to our potential, was not because of a big, old, mean-spirited employer, one who stopped us in our tracks because of our gender, because of our color, because of our religion. Because, if a person does that, then they have to know that they are depriving us of our basic civil rights as Americans, and, if they do that, and it is proven, then they will be stopped by our Government clearly, and without hesitation and with remedies.

Mr. Chairman, this country has no room for mean-spirits, harrassment, bigotry, hatred, and we need to clarify that today.

I want to talk a moment to the women of this country and tell them that for the first time they will be protected from harrassment, from discrimination, by punitive damages. We have come a long way in this country, but we have far to go, and this democratic bill will get us there.

Mr. Chairman, I urge my colleagues' support for the bill.

Mr. HAWKINS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, let me preface my statement by saying that, before coming to Congress, I was a businessman, not a lawyer, and I hope I was a good one.

Mr. Chairman, earlier this year I read a column in the Washington Times regarding congressional consideration of the Civil Rights Act of 1990. The editorial said: "Some Congressmen would probably vote for a declaration of war against Canada if it were contained in a bill with the words 'civil rights' in its title."

I thought to myself that I have never read a truer statement. It seems that some Members do not care what is actually written in the legislation; all that really matters is that the "civil rights" appear in the title. In an election year, no one wants to be accused of voting against civil rights.

While I strongly support the protection of civil rights for all Americans, I do remain concerned about the effect

of this legislation on the business community.

Supporters of Kennedy-Hawkins claim that awards under the bill will be modest in amount, and that punitive damage awards will be few in number. The Labor Policy Association provided me with information on a 1988 RAND Corp. study of wrongful discharge cases in California, where compensatory and punitive damages are available, which provides hard evidence to the contrary. While I realize these cases do not cover discrimination, the study does provide an insightful look at damages.

The Rand Corp. study looks at jury awards in wrongful termination suits in California between 1980 and 1986 after the State courts interpreted California law to allow for compensatory and punitive damages in such cases. This is the same thing H.R. 4000 would do to cases under title VII.

The Rand study shows: Plaintiffs won in 67.5 percent of cases. Punitive damages were awarded in one out of every three cases. The average final payout for plaintiffs' verdicts was $307,628. The average net payment to plaintiffs, after deduction of plaintiff attorney contingency fees, was $188,520, with a median of $74,500. The average contingency fee paid to plaintiff's lawyers was $119,108, a lawyers' bonanza. The number of cases filed rose rapidly during the period studied, with nearly seven times as many cases filed in 1986 as in 1980.

Proponents of Kennedy-Hawkins claim the Rand study shows the average jury award in these cases is $30,000. This figure included defense verdicts, and thus does not represent a reliable prediction of plaintiffs' verdict under title VII.

Committee testimony from California lawyers indicates that if the California experience becomes national law, the Kennedy-Hawkins bill should really be called the Lawyers' Employment Act because it will enrich attorneys at the expense of employers.

This Congress has considered an avalanche of legislation this year that is an assault on businesses across the country. One such bill is before us today, the Kennedy-Hawkins bill. Later today, a better solution to advance equal opportunity will be offered by the Michel-LaFalce substitute. This moderate approach solves one problem in the Kennedy-Hawkins bill by removing the provisions calling for jury trials and unlimited punitive or compensatory damages.

Join me in voting for the LaFalce bipartisan substitute, the fair and reasonable approach for the protection of the civil rights of all Americans.

I would like to be, if I may, one of the few businessmen in here that still has a company, explain a quandry that this puts me in. A good businessman prepares for the worst, and some of my colleagues say it is not a quota bill. Maybe it is not, but I as a businessman, would be prepared along those lines. At the present time my company has 200 employees, and in my home town 15 percent of my people are African-Americans. Sixty percent of my plants' employees are African-Americans or Vietnamese, in other words, minorities. My understanding is, if I am a good businessman and prepared for this thing, quota or no quota, I have got to fire a lot of minority people to get it done. I do not think that's proper.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CROCKETT], a distinguished member of the Committee on the Judiciary.

Mr. CROCKETT. Mr. Chairman, I rise this evening in strong support for H.R. 4000, the Civil Rights Act of 1990. I support this bill because it will restore and strengthen our civil rights laws that have been gutted by our Federal judiciary.

Early in this decade, the Justice Department—charged with protecting the civil and human rights of all our citizens—embarked on a deliberate campaign to negate the strides made in the 1960's and 1970's by our country in the battle against employment discrimination. It went to court—not to ensure equal employment opportunity—but to ensure the principle of last hired, first fired.

The philosophy of the Justice Department was based on the false notion of racial neutrality—something that never existed in America. Ours is not, nor has it ever been, a color-blind society since the first slave ship dropped anchor in Jamestown. Blacks have not been discriminated against because of individual attributes, but because of their blackness. America has always been and still is, a society that distributes its rewards and its responsibilities on the basis of group classification.

Equal opportunity is meaningless if it does not take this fact into account. Equal opportunity is an empty phrase if it suggests that the power of the law is not needed to redress the balance. Equal opportunity is a hollow promise, if it suggests we can all run the race from the same starting point.

Mr. Chairman, this bill should be called the "Civil Rights Restoration Act." We are there this evening to restore the civil rights of all of the American people, because we simply can no longer depend on the courts to protect or enforce those rights without congressional action.

And so, I urge my colleagues tonight to do the right thing, to defeat any crippling amendments and specious substitutes that would ratify the harmful Supreme Court decisions, and to restore the civil rights of all of the American people.

□ 1910

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Hampshire [Mr. DOUGLAS], a retired justice of the New Hampshire Supreme Court.

Mr. DOUGLAS. Mr. Chairman, I want to praise, before I begin, I want to praise the gentleman from New York [Mr. LAFALCE] for coming out with a very fair, balanced substitute. This is not a bill that guts any other bill.

In fact, I want to talk about one section that is identical, section 7 in both those bills. Both of the bills overturn a Supreme Court opinion that was too restrictive to minorities and to women in challenging seniority systems.

The Supreme Court last year decided the case of Lorance versus AT&T technology. What they said was that the women who were upset with the seniority system that discriminated against them should have come into court within a half a year of the time the system was adopted, rather than when it impacted them.

We agree, all of us who support the LaFalce substitute, as well as the folks who support Kennedy-Hawkins, that is too restrictive. That is too unfair; but where we part company is in that half a year to come into court from when you are impacted or when the plan is adopted, the other side has gone out and said, "We're going to quadruple the amount of time it takes to go to court. We're going to go from half a year, or the statute of limitations, or 2 years."

That is 2 years in which other people have been hired, other people have been promoted, other people have been moved around to different positions is too long in the workplace. That is why the 1964 civil rights bill had half a year. You know when you were not hired. You know when you were fired. You know when you were passed over. You do not need 2 years to go see a lawyer, but what it will do by dragging it out 2 years will lead to more disruption in the workplace, will not enable the EEOC to come in and do the mediation and the work that it likes to do to try to prevent cases from going to court, and it also departs from the NLRB and its process, which is also in the workplace, a statute of limitations of half a year.

So the LaFalce substitute is fair. It is balanced, but to quadruple the statute of limitations with no evidence and no requirement shown to the committee is an unfair part of the bill. That is why the LaFalce substitute makes more sense.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KASTENMEIER], a distinguished member of the Judiciary Committee.

Mr. KASTENMEIER. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

H.R. 4000 is the bill approved by the Committee on the Judiciary, with minor changes, by a 24 to 12 vote.

The Subcommittee on Civil and Constitutional Rights, on which I serve with the chairman, my friend from California, Mr. EDWARDS, held a series of hearings on this important bill. During the course of the consideration of this bill in subcommittee and committee, we amended the bill to improve it.

We responded to concerns about the possibility that this bill would be unfair to employers and would result in quotas. We responded to concerns that this bill violated due process rights. We responded to concerns that mere thoughts and not actions would result in liability for discrimination. We have reported a very strong bill designed to respond to five devastating Supreme Court cases.

H.R. 4000 is also designed to strengthen civil rights laws. I was a Member in 1964 when Congress crafted the great Civil Rights Act of 1964, and I remember the situation then—our country was tragically segregated by law and tradition, and this civil rights bill was subject to filibuster and compromise.

Nonetheless, Congress enacted an historic bill, but it was not perfect by any means. It provided a mechanism to address some of the worst problems we faced. The act did not cover voting rights, housing discrimination, or discrimination against the disabled.

Since then, we made great progress. This week marks the 25th anniversary of the Voting Rights Act of 1965. We passed the Fair Housing Act in 1968, and significantly strengthened it in 1988. And last week the President signed the omnibus Americans with Disabilities Act, a great law to provide civil rights protections for persons with disabilities.

But 26 years after the Civil Rights Act, 26 years of great progress on civil rights, remedies under the Civil Rights Act for employment discrimination are still limited to back pay and injunctive relief.

H.R. 4000 strengthens title VII of the Civil Rights Act of 1964 by adding a damages remedy for cases of intentional employment discrimination. Compensatory damages are available for cases of intentional discrimination. In addition, punitive damages are available in cases of egregious violations—if the employment practice was engaged in "with malice, or with reckless or callous indifference to the federally protected rights of others."

Damages are available only for intentional discrimination, and not for cases of disparate impact, as some may misunderstand.

Compensatory and punitive damages are already available to victims of intentional racial discrimination, under the Civil Rights Act of 1866, codified at section 1981 of title XLII. But women and religious minorities, who are covered only under title VII, cannot be awarded any damages at all.

By adding damages to title VII, H.R. 4000 seeks to provide an adequate remedy for all prohibited intentional employment discrimination, whether based on race, color, religion, sex, or national orign.

Mr. Chairman, we have a great opportunity today, to reinvigorate our great civil rights laws. The Civil Rights Act of 1990 gives us that opportunity.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman, the prime sponsor of the bill, for yielding this time to me.

Mr. Chairman, I rise in support of the Civil Rights Act of 1990. The act is a bipartisan attempt to reinstate constitutional guarantees of longstanding civil rights, through a comprehensive employment rights bill. This legislation, which is not a quota bill will protect the civil rights of minorities, women, the disabled, the elderly, and others who have been the victims of discrimination in the past.

Mr. Chairman, it was just a little more than a quarter of a century ago that Congress passed the historic Civil Rights Act of 1964, which outlawed discrimination in employment, public accommodations, and federally funded programs. However, a series of Supreme Court decisions, made in the belief that a nondiscriminatory society has already been achieved, have restricted civil rights protections and have turned against the victims of discrimination.

I am concerned that the balance in civil rights protections has tilted dramatically against the discriminated. Despite great strides in the past 25 years, I do not believe the battle against eradicating race and sex discrimination has yet been won. America is still striving to reach a colorblind society and one free of gender bias. I believe we must continue to move America forward, not backward, in the march against prejudice. We share the same goals on both sides of the aisle and we in Congress must continue to spell out our intention to shield Americans from all forms of bias.

H.R. 4000 will help to do so.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS], a distinguished member of the Ways and Means Committee.

Mr. ANDREWS. Mr. Chairman, in listening to this debate I am reminded of how much progress we really have made in such a short period of time. Growing up in Texas as a young boy, I remember well that blacks were not allowed to drink out of the same water fountain as whites. They were not allowed to use the same restrooms or go to the same schools. Our football teams in high school did not play black high school football teams.

We have come a long, long way. At the University of Texas there were very few black students in the school. Even in the late sixties, when the University of Texas won the national championship in football, there were no black football players on the team. It is amazing how much progress we have made in a short period of time, and yet in the area of employment discrimination, due to the recent Supreme Court cases we have much to do. The reason we are here tonight is because of the actions of the Supreme Court in several recent decisions.

Let me mention one particular case and one reason I think this bill is so important. Last year in Patterson versus McLean Credit Union, the Supreme Court held that in making and enforcing private employment contracts, racial discrimination causes of action could not be filed based on actions of the employer during the time of employment.

□ 1920

In other words, racial harassment would only be prohibited during the hiring process. In the Federal court of the southern district of Texas a black man brought a lawsuit against his employer. He alleged that the company used harsher methods to evaluate him than white employees, that even though he was qualified, he was denied every promotion. He was paid a lower salary than white employees who worked side by side with him, and finally he was fired, solely because he was black. The district court ruled that even if every one of these contentions were true, he could not get relief. The case was dismissed because of the Patterson decision.

That is why we are here tonight, to give remedy to the next plaintiff, to make right from this wrong.

In 1963, Lyndon Johnson said:

> We have talked long enough in this country about equal rights. We talked for 100 years or more. Yet, it is time now to write the next chapter and to write it in books of law.

And tonight, once again, we get to harken to those words of Lyndon Johnson and change the law. I look forward to the passage of this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I think it is only fair that everyone understand in this debate that both the bill and the substitute overturn Patterson. To come here tonight and suggest you have got to vote for Kennedy-Hawkins to overturn Patterson is just not true. Both of them overturn Patterson.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Chairman, over 25 years ago in what was a victory for millions of Americans the Congress passed the Civil Rights Act of 1964. That legislation marked a milestone in American history and, as a result,

American minorities could feel secure in knowing that discrimination was illegal and it would not be tolerated.

For over 25 years America has made steady progress toward the goal of eliminating discrimination. Sadly, however, we have taken a step backward with the recent series of cases decided by the U.S. Supreme Court. These 1989 decisions have made it more difficult for victims of discrimination to get justice.

Individual rights are being championed in Eastern Europe with the United States being looked to as a model. Yet, the civil rights of American citizens have been effectively reduced by our courts.

Passage of today's civil rights bill is necessary. Simply stated, it should not be more difficult for victims of discrimination to seek justice to vindicate their civil rights as Americans, and finally, with Justice William Brennan leaving the Supreme Court and realistically it is only a matter of time before Justice Thurgood Marshall leaves that Court as well, two of the great guardians of the rights of minorities in the history of America, with the departure of these two giants it is more important than in years that we write into the laws of this Nation clearly and explicitly the important protections provided by the 1990 Civil Rights Act.

I urge my colleagues to join me in supporting this act and supporting the bill as reported by the committee.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in strong opposition to the Kennedy-Hawkins bill, and let me once again remind the Members that the remedies in this bill apply and will be taken up as remedies to the Americans with Disabilities Act. So you are expanding the remedies to a whole host and millions of people across this country.

Mr. Chairman, the proponents of this bill in the heat of their compassion to take care of those that are discriminated against have forgotten their compassion for millions of their fellow Americans, and those are the small business people of this country.

The Kennedy-Hawkins bill is legalized gambling, because an employee can gamble on receiving a cash payment by bringing a frivolous suit for whatever reason. He takes a gamble that that small businessman will settle and he will walk away with very little expenses with a settlement.

Most small business people live off the profits of their labor with very little left over for reinvestment. They live off of those profits.

This bill and the implementation of the remedies of this bill would leave a small businessperson to pay some $30,000 to $80,000 for legal fees, exactly the amount of money that they live off of in order to hire a lawyer to represent them in a frivolous lawsuit. Whether they win the lawsuit or not, they have got to hire a lawyer in order to represent them rather than just make a deal with the EEOC under present law. He has a choice of paying that lawyer and losing his business or paying off the employee. That is not a compassionate choice.

Make no mistake about it, this is a quota bill, because that small businessperson will have to implement quotas so as to eliminate any possiblity of lawsuits.

The LaFalce substitute is compassionate because it is a compassionate compromise. The remedies in Kennedy-Hawkins are vicious and vindictive.

Mr. HAWKINS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Civil Rights Act of 1990.

Our Nation stands for certain fundamental principles, including freedom and equality of opportunity for all citizens. These are the principles upon whch our Nation was founded, and they are the principles which keep our Nation strong. These principles are intended to provide all American citizens with the opportunity to succeed in the field of their own choice—and to provide their children with a better future.

All Americans deserve to share in these freedoms and to know that their own search for success is constrained only by the extent of their own talents and abilities.

However, even today, that is not always the case. The ongoing tragedy of discrimination and prejudice continues to violate these principles and to limit opportunities for many Americans.

We have made major strides in recent years in fighting discrimination in our Nation. Grassroots movements supported by millions of Americans have fought back against prejudice and intolerance. And all three branches of Government have made contributions to this battle as well—by passing and upholding important laws that protect American citizens against discrimination.

At one time, the Supreme Court could be counted on as an ally in that struggle. But in recent years, the faces on that court have changed, and its commitment to the principle of equal opportunity can no longer be taken for granted. In fact, in five instances in recent years, the Supreme Court has rendered decisions which make it more difficult for victims of discrimination in the workplace to prove their cases and to seek redress in the courts.

Our objective must be to make prejudice and discrimination a thing of the past, and to ensure that every American citizen can achieve the American dream. But these five Supreme Court decisions turn back the clock on civil rights, robbing Americans of the right to employment opportunity regardless of race, color, religion, sex, or national origin. These decisions protect those who discriminate, and deprive American citizens of their fundamental rights.

The Civil Rights Act of 1990—H.R. 4000—overturns these decisions. It will restore and strengthen our civil rights laws by making clear that employment decisions based on prejudice are illegal. The bill encourages broad interpretation of Federal civil rights laws to prevent any manner of discrimination. And it will restore fair and effective civil rights enforcement.

There are many who would like us to believe that this bill is something other than what it is.

They would like us to believe it is a quota bill that will result in employers adopting specific hiring preferences based on race rather than qualification.

But the bill contains specific language making clear that it does not in any way mandate quotas.

The bill has been clarified repeatedly to ensure that it will not result in any system of quotas in practice.

And groups that have steadfastly opposed any form of quotas stand in strong support of this legislation.

Some would also like us to believe that this bill will lead to a flood of lawsuits against innocent employers—lawsuits that will bankrupt businesses and tie them up in court for years.

But the bill is designed to discourage litigation when possible.

In past cases involving racial discrimination, claims have been infrequent, and damages have been reasonable. There is no reason to believe this bill will alter past experience.

And the law will encourage fairness by establishing the same award system for victims of racial discrimination and victims of discrimination on the basis of sex, religion, or disability.

The bill's opponents are intent on staring the truth in the face and calling it by another name. The Civil Rights Act is not a quota bill. It is not a scheme to enrich attorneys at the expense of business. It is, very simply, a bill to restore fairness to our civil rights laws and to give all American citizens a fair shake in the workplace.

Discrimination against any American citizen on the basis of race or sex or religious affiliation or disability is abhorrent. It is not to be tolerated in this society, where we place the highest value on equality of opportunity for all Americans.

We need to fight back against the crime of discrimination, not for some Americans, but for all Americans. That is what this bill is designed to do. That is what this bill will accomplish.

And that is why all Members of this body should stand up for equal opportunity, stand up for civil rights, stand up for the American dream, by voting to approve the Civil Rights Act of 1990.

□ 1930

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, in reviewing the legislation I had two primary concerns. First, will this bill impose quotas, yes or no? The answer to that is absolutely not.

Why do I say this? I would just urge Members to read page 27 of the bill, lines 4 through 9. This language is identical to the Andrews amendment, which we will have an opportunity to vote on later this evening. Let me read the language:

> The mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin, is not alone sufficient to establish a prima facie case of disparate impact violation.

The key words are, "is not alone."

What does this mean? It means exactly what it says. What it says is that if you go to court arguing only a statistical imbalance to convince a judge of a discrimination case, you are going to get thrown out on your ear. You have to do more than show a mere statistical imbalance. I hope Members will keep that in mind.

My second concern was this: Will this legislation encourage a dramatic increase in jury trials in race discrimination cases? I have concluded that it will not. Why do I say that? I hope that Members understand that under existing law a person can sue alleging race discrimination under section 1981, and seek compensatory and punitive damages. This is under existing law.

It is interesting, however, that over the last 10 years only 576 such cases have been brought and, guess what, only 68 plaintiffs have won awards under section 1981 over the last 10 years. This is hardly what I would call a rampant use of the courts.

This legislation will merely extend this protection to cover discrimination based on sex, religion, national origin, and disability. This is what we are talking about.

I would ask Members this: why should we not extend to women in this country, who are the victims of discrimination, the same rights and opportunities that minorities have? That is what we are talking about in this legislation. I do not believe we can justify such a distinction.

Mr. Chairman, let us not overlook one additional fact, which is also very important, and that is when we adopt, as we are certain to do later on this evening, the Brooks-Hawkins-Tallon amendment, we will set a cap on punitive damages in title seven cases.

Mr. Chairman, under existing law there is no cap on punitive damages. None whatsoever. I think the cap provision is also a very important distinction and a very important improvement over the Senate bill from the standpoint of the business community.

Mr. Chairman, H.R. 4000 has been terribly misrepresented. The quota argument is an absolute red herring, and so is the argument about a sharp increase in the number of lawsuits with respect to race discrimination.

Mr. Chairman, I urge Members to oppose this amendment, and support the Brooks amendment and the Andrews amendment, and H.R. 4000, as amended.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I do want the gentleman from Kansas [Mr. SLATTERY], whom I respect a great deal, to understand where the quota language is in H.R. 4000. The gentleman will find it in the Judiciary print on page 4, lines 19 to 22, in which it states quite clearly, and this is throughout the bill, that the complaining party, "shall not be required to demonstrate which specific practice or practices within the group result in such disparate impact."

I would inquire of the gentleman from Kansas [Mr. SLATTERY], of the complaining does not have to say which practice results in the disparate impact, then how can the employer change the practice?

Mr. SLATTERY. Mr. Chairman, if the gentleman will yield, I would just point out that has nothing to do with the quota issue, and that is what I was talking about.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, first let me commend the chairman of the Committee on Education and Labor for his perseverance and hard work which has been put into this piece of legislation.

I must confess I had a prepared statement that I was going to present in support of H.R. 4000, but after listening to the remarks of some Members here, I had to make my own notes quickly and sort of see what I could say that may help us to get a train that is derailed back on track.

Mr. Chairman, I always understood, having been one who was the victim of discrimination, and still is, for many, many years, and participated in many of the struggles to try to bring about democracy without regard to race, creed, color, or sex, I thought that the purpose of civil rights statutes was not to correct a wrong, but to serve as a way to deter discrimination, and, yes, correct it, if it so happens that it occurred.

It was not a law to give haven for fees for lawyers, as we are witnessing right under our nose here in Washington, DC, as the Federal Government tries to convict the Mayor of the city because of drugs. God knows how much it will cost. It is not a law that we witnessed last year, with the efforts of the Federal Government to prove the circumvention of this body by Colonel North in the transferral of arms to Contras, the aid to Contras, after we had decided as a Congress that it should not be done. Nobody knows how much that cost. Nor, if we look a little longer, later his boss, Mr. Poindexter, who has been convicted and may never serve any time because of his connections. This kind of justice we try to eliminate.

When we talk about justice and what it means, Zsa Zsa Gabor spent 3 days in jail, and Colonel North collects $25,000 for making one speech. What do we give to him?

I have marched in the South for the rights of people. I was taught in school that this democracy of ours is a government of the people, by the people, and for the people.

□ 1940

And all we are saying in this kind of legislation is that it was broken down by the Supreme Court, and let us put the train back on the track and make it work, yes, for all our citizens whether they be black, white, green, male or female, or have some kind of physical handicap.

And Lord knows, let us quit kidding ourselves. I am not a lawyer, but I am a citizen, I am a Member of this body, and I want to see us do what we should do to support legislation that is going to protect people who vote in this country because of action that we took years ago, who would like a job, a decent job, and not be discriminated against because of the color of their skin or their sex or national origin.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. SENSENBRENNER. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Iowa [Mr. GRANDY].

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 4 minutes.

Mr. GRANDY. Mr. Chairman, I thank both my colleagues for yielding time.

Mr. Chairman, let me say at the outset, like my colleague, the gentleman from Illinois, Mr. HAYES, I am not an attorney. I have made a couple of them very happy in my lifetime, but I am not a lawyer. I did not go to law school, and it is not my purpose today

to debate the legal arguments in H.R. 4000 versus the LaFalce substitute.

I am, like my colleague from California, Mr. LEVINE, a member of that generation that saluted and applauded the Civil Rights Act of 1964. But unlike my colleague from California, today I stand in support of the LaFalce amendment and in opposition to H.R. 4000. I will leave it to this body to decide which one of us has fallen from grace for our support for civil rights. I do not know. But I know that as far as I am concerned it is no testament against civil rights to support legislation that will emphasize mediation over litigation, and the LaFalce substitute provides equitable relief for discrimination and harassment in the workplace by allowing a judge to determine the amount of equitable relief, which was the original intent of the 1964 Civil Rights Act, as determined by many court decisions. Employees and employers have a much better chance of achieving a conciliatory, prompt, and equitable resolution, and by keeping jury trials out of title VII cases we can avoid the chance of a legal lottery where plaintiffs' attorneys would gamble for huge awards and work to collect large fees.

The idea of creating a Federal tort system, Federal tort law system for employment discrimination will create a lawyer's bonanza but not necessarily increase civil rights for Americans. And it is ironic that a majority of the Senate Members and Members of this body apparently support creating this new Federal tort system for employment discrimination cases when at the same time we see legislators at both the Federal and State level working to find alternatives to the tort system in areas like medical malpractice and product liability. So I am confused.

There is a recent report of the Federal Courts Study Commission that graphically explains that Federal Courts are overburdened, that they are becoming congested. The report explains that the recent surge in Federal criminal trial is "preventing Federal judges in major metropolitan areas from scheduling civil trials, especially civil jury trials, of which there is a rapidly growing backlog."

The report goes on to suggest, Mr. Chairman, that arbitration should be emphasized over litigation for employment discrimination. So H.R. 4000 may have the best of intentions, but it would probably have the worst of effects.

I hope that we do what is right, whichever side of that civil rights banner we march under today. The LaFalce substitute, to this gentleman, provides thorough, equitable remedies, puts the plaintiff before the plaintiff's attorney, and accomplishes what we set out to do. It reinstates civil rights laws that existed prior to the recent Supreme Court cases.

For these reasons I urge all of my colleagues to defeat the Hawkins-Kennedy bill and support the LaFalce substitute.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to compliment two gentlemen, the gentleman from California and the gentleman from Texas, and others for their fine work on this legislation.

It is not sad that at a time, during a decade when many countries are being liberated, being freed, we in this country have to struggle to hold onto what we already thought we had, civil rights, a bill that was passed a generation ago? Our country, under the leadership of a southern President, Lyndon Johnson, passed the Civil Rights Act of 1964, and here we are, 25 years later, trying to restore in part one of the most important titles, title VII, which is the specific title related to employment discrimination.

Let us be honest. Even with title VII, before the gutting 1989 Supreme Court decisions, there have been attempts to skirt that law. There has been race and sex-based wage discrimination. There has been sexual harassment and racial harassment in the work force, and there has been unfairness in employment practices.

We had an EEOC during the Reagan years that did not function properly. Ironically, during the last decade we had a Civil Rights Commission that had a director and a majority who worked against civil rights.

The least we can do is restore in part the law that Congress passed a generation ago and protect our citizens. Our country is behind other countries in health care, behind in pension reform. For heaven's sake, let us not fall behind in civil rights. Let us protect all of our people under the law.

We have in our country separate but equal branches of government. This is our day when Congress can show leadership. Let us protect our people. Let us stand up for America.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in support of the Civil Rights Act of 1990, without weakening amendments. A number of Members today have taken the floor to allege that this bill is antibusiness. Nothing could be further from the truth.

The bill before us contains numerous provisions to protect the rights of defendants in civil rights cases. The legislation also contains provisions which restrict the ability of plantiffs to bring discrimination suits in Federal courts.

And further, I would point out to my colleagues that this legislation, in seeking to overturn six recent Supreme Court decisions, merely restores civil rights law to the conditions prior to 1989.

To allege that this bill is antibusiness is to say that our civil rights laws prior to 1989 were antibusiness, and yet I do not hear that from my colleagues.

To allege that this bill is antibusiness is to say that prior to 1989 there was a gun at the head of businesses, forcing them to prove that each and every employment standard and practice is essential to job performance, and yet I do not hear that from my colleagues.

Prior to 1989 neither I nor my colleagues were the focus of a coordinated lobbying effort by business men and women to drastically revise our civil rights laws.

On the contrary, we didn't hear from them because they know that conducting their business in a nondiscriminatory fashion is profitable.

My colleagues, we engage in this debate emersed in a time in history when people all over the world are discovering their inalienable rights. Amidst this tide of history we would engender shame upon this institution if we voted to turn back the clock, and negate the gains we so mightly fought for our own people, during our own history. Now in the 1990's we are entering an era of political and social change unprecedented in modern times.

The challenge before us today is whether we have the courage to face the future and provide for our citizens the civil rights protections guaranteed them by our Constitution.

□ 1950

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, all of the talk about this bill in terms of whether or not it would require racial and other quotas has largely masked provisions which I find it hard to believe even the supporters of this bill can seriously try to justify. And unfortunately, if something like "all it does is reverse five recent Supreme Court decisions from the conservative Reagan Court" is repeated often enough around here, it's believed by an awful lot of people who never look at the bill.

Some provisions of this bill seem entirely without reason other than to create another "protected class" under our civil rights laws—that being plaintiffs' attorneys. I have pointed to the provision on the Flight Attendants versus Zipes case as a prime example of the overreaching nature of this bill. In that case, a settlement between individual employees and the airline was challenged by the flight attendants or-

ganization, and the question was whether the individual employees could be reimbursed for their attorney's expenses in defending the settlement. The Supreme Court found no authority to reverse the American rule and shift those costs from the party that incurred them. Overturning Zipes could have been done by shifting those costs to the intervening party. But the intervening party is often a union or other employee association. So stick it to the employer. A small point in the bill, but it says a lot in terms of how this bill was put together.

I've been assured along the way that this provision would be removed or fixed—yet it's still in the bill. And rather than fixing some of these mischievous provisions, the committees which have had jurisdiction of this bill made them worse. Where else would we even think about intervening in the attorney-client relationship to the extent of prohibiting settlements of lawsuits unless the attorney's fee is guaranteed, which is what this bill does.

Mr. Chairman, under the guise of a civil rights bill, we are creating the opposite of what we want—turning the workplace into a more litigious environment, discouraging voluntary resolution of claims that are brought, adding to the burden on our courts and legal costs on our economy. I do not understand why the supporters of this bill have been willing to modify and compromise on the provisions which protect minorities, but so unwilling to change those provisions which primarily benefit attorneys? Who, really, are they trying to protect?

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI], a distinguished member of the Committee on the Judiciary.

Mr. MAZZOLI. I thank the chairman for yielding the time.

Let me salute the gentleman from Texas [Mr. BROOKS], our chairman, and the gentleman from California [Mr. HAWKINS], who have together led the fight in this great area, and my friend, the gentleman from California [Mr. EDWARDS] as well.

I could not help but be struck today when I was in Statuary Hall, when they had the videotape of the 1965 speech that President Johnson gave from just behind where I am standing at this moment, and every now and then the camera would go into the crowd. I noticed there were people sitting steely faced, hands in their laps, not reacting to the applause of the moment, obviously concerned about what this bill meant, perhaps even opposed to the bill that the President then suggested that the House pass, which it did.

I would suspect that if the debate that occurred in 1965 were to be repeated, we probably would have a lot of what we have today, and that is good-faith, careful examination of all the jots and titles of the law and with the suggestion that because we are not quite sure we know exactly what every word means, we are not quite sure we know what every concept is and we ought not get into the bill.

Yet at the same time, those 22 Members who were in the House in 1965 and who are still in the House today would probably say that the bill was one of the best bills they ever voted for. And those people who are not here in the House, perhaps who also voted for it, would also agree.

What I guess I am trying to say is that I think there are moments when we probably ought not to be too completely overawed by the details and absolute assurance that every word we know and every concept we fully understand, opting as I think we should tonight and tomorrow if we take the rest of the bill up, for a statement in behalf of what the bill stands for, which is equality, equal opportunity, a chance for people to make it in this world, a chance for people not to have something held against them because of the accident of skin color or gender.

So, Mr. Chairman, I would just sum up—I think we could talk all night long about the detail of damages and the fact that only damages permitted here are intentional violation, we could talk about quotas, and there are no quotas in the bill. Let me sum up by saying I think the bill is a good bill. I think it ought to be passed. I think it would be a good day for America and for the House to pass it.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the LaFalce substitute. I strongly support the LaFalce substitute as a fair and balanced approach to civil rights reform and am confident it will be signed by the President. I know nearly everyone in Congress agrees with the main objective of any civil rights legislation, However, I and hopefully others, will rise in support of a workable bill that will lead to the end of discrimination within the parameters of the Constitution.

Specifically, I support the LaFalce amendment because in principle, I am opposed to quotas and quota systems. I believe that quotas infer that ethnic groups are inferior, and otherwise unable to compete on an equal basis. The LaFalce amendment provides that the mere existence of a statistical imbalance in an employer's work force is not sufficient to establish a case of discrimination. Recently, several black scholars have commented that quota systems harm blacks because they imply inferiority. The LaFalce amendment will give all individuals the dignity and respect to compete with one another on an equal basis.

Passage of H.R. 4000 would almost certainly mean the adoption of quotas by businesses in order to avoid defending against discrimination suits. I am against the use of quotas as a method of remedying discrimination. Racial quotas, while well meaning, violate basic principles of equal justice and can serve to fuel racial hatred by pitting one group against another, and harm minorities by tainting hard earned achievements.

Although legislation is important, I believe that it is equally important to support community programs which assist in the minority community. I have spent a great deal of time in my congressional district working with minority leaders such as Joyce Burns of Teague, Ms. Lois Jean Hart of Corsicana, and the Reverend Gaylong Rolen, Mr. Leroy Jones, and Mr. Walter Alexander, all of Ennis. All of these individuals have been vital in working to change attitudes of discrimination on the local level, rather than waiting to have a judicial remedy rendered to address their problems. I commend the efforts of these individuals and their willingness to work together to eliminate racial discrimination.

Today's vote is an important measure that should enhance the United States as a world leader in antidiscrimination policy. The LaFalce amendment will help eliminate remaining racial discrimination. Please join me in supporting the LaFalce amendment.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the chairman for yielding.

Mr. Chairman, I congratulate Chairman BROOKS and particularly I congratulate my very good friend, Chairman EDWARDS, one of the great leaders in civil rights in this Nation.

Mr. Chairman, this is going to be a historic session for civil rights. We recently opened the door to all of the opportunities that America has to offer, to 43 million Americans. We thought we had opened the door to people of color, gender, national origin, different from the favored of us, prior to 1964. And indeed we did.

But no one needs to travel throughout America to know that racism still exists, that there are still practices not only by employers but by others to exclude Americans based upon their race or their color. And the bastion in America to prevent that discrimination has been the Supreme Court of the United States in this century.

Unfortunately, it has not been the protector and defender that it once was in recent times.

And so we speak to five Supreme Court cases, and we speak in a way that says we meant what we said in 1964 and we expect people in America to honor the civil rights commitment that this Nation really made in 1776 and in 1787 and in the 1860's in the adoption of significant amendments to our Constitution, but which we know and which was said so eloquently in 1963, that we have still not lived out the promises of those documents, and that is true today.

Let us pass this act, let us reject these weakening amendments, let us move on to the commitment to civil rights for each and every American.

Mr. Chairman, I rise today in strong support of H.R. 4000, the Civil Rights Act of 1990. I first want to commend the chairmen of the Education and Labor and the Judiciary Committees for their leadership in bringing H.R. 4000 to the floor and providing the House the opportunity to respond to the substantial weakening of the 1964 Civil Rights Act. I would also like to commend the Judiciary Subcommittee chairman, DON EDWARDS, for his vigilance, his vision and his unwaivering commitment to the cause of civil rights and justice.

The House has before it today legislation that will return the Civil Rights Act of 1964 to the foundation of equality and justice that it was designed to be.

Not much more than two decades ago, our Nation examined its soul. It was a time of turmoil, controversy and hope. Although our Nation was founded on great principles of equality and justice, before the Civil Rights Act, many Americans did not have an equal opportunity to get a job, and, as importantly, hold a job, to eat in the restaurant of their choice, travel as they pleased, or rest on their travels in the hotel of their choice.

Thus, during a time of greatness, this body responded to the cries of the oppressed, and our collective heart responded to the call of justice, which is, indeed, the heart of America.

The Congress approved and President Lyndon Johnson signed the most sweeping civil rights legislation the world had ever known. In 1964 we said no longer would a man be judged by the color of his skin or by his heritage, no longer would a woman be judged by her gender, but that all Americans would be judged by their talents and their character. And from that point forward, the words equality and justice for all would have meaning for all Americans.

Yet, last year, the Supreme Court dealt devastating blows to the effectiveness of the Civil Rights Act. The Court's rulings in five cases turned an effective, strong law which guaranteed that every American had a fair chance at a job or at a promotion, into a mockery of its former self.

The Court's rulings have had an adverse impact on claims involving racial and ethnic harassment, discharge, promotion, retailiation and other job discrimination. Cases have been dismissed at a rate of one per day since the Court's rulings.

The Court's rulings disastrously narrowed the scope of coverage of section 1981, and turned long-held burdens and standards of proof on their head in cases where employment practices had a disparate impact on women and minorities. The Supreme Court further allowed employers to consider factors, which were previously, and should be, impermissible factors such as racial, religious, gender, or ethnic stereotypes.

H.R. 4000, overturns these rulings and puts the Civil Rights Act back to where it was intended to be in 1964. Without this bill, employment practices which operate to exclude or limit the opportunities of millions of Americans will be left unchallenged. As America approaches the 21st century, we cannot afford to allow systems to exist which erect illogical barriers which prevent the full participation of all Americans in our society.

Finally, H.R. 4000 addresses a longstanding inequity, and provides for comparable remedies for victims of intentional discrimination in appropriate cases, according to the same standards under which victims of racial discrimination to recover damages under section 1981. I would emphasize to my colleagues that these damages are available only in cases of intentional discrimination. However, I firmly believe that all victims of intentional discrimination should be entitled to the same remedies. Be it discrimination based on race, gender, or disability, discrimination is wrong and all parties should be entitled to the same remedy. We need a meaningful deterrent to intentional discrimination. Two years ago, under the Fair Housing Act amendments, this very House provided for monetary damage awards in cases of housing discrimination. There is no reason for there to be a difference in employment discrimination.

Therefore, I intend to strongly oppose the substitute amendment to be offered by the minority leader. The substitute limits the remedies for victims of intentional gender, religious, or national origin discrimination. This is an unfair, unjust and un-American differentiation.

Furthermore, the committee bill addresses the most grievous aspects of the Patterson decision and clarifies that all aspects of the employment relationship are covered, including actions which take place during employment. The substitute, however, codifies the Patterson decisions and limits protection only to hiring.

The substitute would also allow employment decisions that are made with race, gender, religion, or national origin in mind to be permissible. That is not an acceptable America.

If the substitute prevails, ours will be a nation where the course of an American's life will be dictated and defined not by their talents, character, abilities, and dreams, but by their race, gender, disability, religion, or national origin.

The time to return the 1964 Civil Rights Act to the vision and vehicle of justice that it was intended to be is, now. I strongly urge my colleagues to oppose the substitute and support the committee bill.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

In recent years, a number of decisions by the U.S. Supreme Court have weakened U.S. civil rights laws—the very laws that make our Nation great.

Today, with the the Civil Rights Act of 1990, the House has the opportunity to restore the health and integrity of our commitment to civil rights.

In the 1980's, we have been witness to frightening increases in prejudice against Americans—prejudice based on race, ethnicity, religious beliefs, and other assets of our national diversity.

As an American of Asian ancestry, I know personally of prejudice. I know of the damage it can do, of the injustices that result, and of the lingering subtleties that range from stereotyping to outright violence.

Recent Supreme Court decisions make it very difficult for Americans of Asian ancestry, for example, to challenge instances of discrimination.

Glass ceilings—the stealthy denial of advancement opportunities and educational tenure, among others—are becoming increasingly and distressingly common.

But, make no mistake. Glass ceilings and other forms of discrimination are not Asian-American issues.

They are not African-American, or Hispanic-American, or Polish-American issues.

They are American issues.

Mr. Chairman, I urge my colleagues to support this legislation.

Passage of the the Civil Rights Act of 1990 is vital if we are to reaffirm the original intent of civil rights laws, and protect the future from the forces that would divide us, not unite us.

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Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Calfifornia [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, today is an historic day in this House. Once again we face a fork in the long road toward social equality and justice. As has always been the case, many will find this choice a difficult one. Some are nervous about offending certain economic groups. Some are content in the relative comfort of their own positions.

I urge my colleagues to rise to the challenge of this occasion. History will not look kindly on those who are timid in the face of discrimination of any kind. Do not cripple this legislation.

Mr. Chairman, I rise today to support the bill and oppose the substitute. This amendment cannot be considered a compromise in any form; the substitute is simply a killer amendment that would codify the very cases that H.R. 4000 seeks to overturn. The substitute would provide that under title VII victims of intentional gender, religious, or national origin discrimination could not recover damages in cases in which backpay may be awarded. This amendment is not consistent with current law. No such limitation applies to victims of intentional racial discrimination who may receive both compensatory and punitive damages. Punitive damages have been available the last 20 years and the average jury award in such cases has been $40,000.

In addition, this substitute would codify the definition of "business necessity" used in the Wards Cove case, the key case H.R. 4000 seeks to overturn. The Wards Cove court dramatically lowered the standard of business

necessity to "whether a challenged practice serves, in a significant way, the legitimate goals of the employer"—a standard so low that virtually any employment practice could meet it.

In fact, Judge Richard Posner of the Seventh Circuit Court of Appeals has stated that the Wards Cove definition is so lenient that it permits the use of any practice that excludes women or minorities, so long as it is not unreasonable, and has pointed out that "Wards Cove dilutes the 'necessity' in the business necessity defense."

Mr. Chairman, let us remember that the purpose of the Civil Rights Act of 1990 is to overturn the Supreme Court decisions interpreting Federal civil rights protections prohibiting discrimination in the workplace. If we hope to achieve the intended goal of this legislation, then it is impossible to support the substitute which codifies the most objectionable aspects of those decisions.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, I rise today in strong support of H.R. 4000, the Civil Rights Act of 1990, which seeks to restore and strengthen civil rights laws that ban discrimination in the workplace, and strengthen the remedies available for victims of discrimination. I also want to commend the gentleman from California [Mr. HAWKINS] for his demonstrated commitment to promoting equal rights for all people and for bringing this bill to the floor.

The fact that Congress is having to revisit the issue of protecting basic civil rights reflects poorly on progress our Nation has made toward eradicating discrimination in employment. More than that, it reflects a resurgence of racism and the erosion of many of the gains which took more than 20 years to accomplish as a result of the civil rights movement. In effect, the Supreme Court has taken us back to where we were before 1964. Now Congress is having to restore these rights.

In 1964, Congress attempted to put this issue to rest when it passed title VII of the Civil Rights Act. Triggered by our Nation's concern over centuries of racial injustice, title VII created sweeping legislative programs which proscribed discrimination in employment.

Until last term, title VII decisions handed down by the Supreme Court provided a liberal interpretation of the statute in consonance with legislative intent. In the Landmark Griggs versus Duke Power Co. case, Chief Justice Burger described precisely the intent of enacting title VII, that is, "The removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate". Title VII and the Griggs decision where the catalysts in adoption of measures to overcome centuries of systemic discrimination. The doors to economic opportunity for racial and ethnic minorities and women had begun to open. Paradoxically, just as they started through, the Supreme Court slammed the doors shut.

In five civil rights cases last term, the Court dismantled a body of carefully constructed, long-settled employment discrimination law. As Justice Stevens suggested in the dissenting opinion in Wards Cove Packing Co., Inc. versus Antonio:

> Title VII of the Civil Rights Act of 1964 prohibits employment practices that have discriminatory effects as well as those that are intended to discriminate. Federal courts and agencies consistently have enforced that interpretation, thus promoting our national goal of eliminating barriers that define economic opportunity not be aptitude and ability but by race, color, national origin, and other traits that are easily identified but utterly irrelevant to one's qualification for a particular job. Regrettably, the Court retreats from these efforts * * * [T]urning a blind eye to the meaning and purpose of title VII, the majority's opinion perfunctorily rejects a longstanding rule of law * * *

As suggested by Justice Stevens, the progress made in the area of civil rights now stands in peril.

There is clear evidence, from the testimony at the hearings on H.R. 4000, that the recent Supreme Court decisions already have adversely impacted civil rights litigation and enforcement. For example, as a result of the Wards Cove Packing Co. versus Atonio requirement that an employee pinpoint a precise discriminatory business practice to show significant disparate impact, it is now more difficult, and in some cases virtually impossible, for victims to prove discrimination. Consequently, it is easier for employers who discriminate to escape liability.

Benjamin Hooks, executive director of the NAACP legal defense fund, testified at the hearings that in the first 8 months after Patterson versus McLean Credit Union, in which the scope of section 1981 was narrowed to protect only against discrimination in the "making of contracts." Over 200 employment discrimination claims were dismissed. He estimates that there are over 11 million employees in this Nation who may be subjected to egregious acts of intentional racial and ethnic discrimination, but will no longer be protected by any Federal law.

In Lorance versus AT&T Technologies, the Supreme Court set an unreasonable time limit on challenges to discriminatory employer practices. The Court held that the statute of limitations begins to run when the practice is adopted, rather than when the employee begins to experience the effects of the practice. As a prominent civil rights attorney explained at the hearings, Lorance puts employees in a no-win situation; they may not realize they have been hurt until it is already too late to challenge the employment practice.

In Price Waterhouse versus Hopkins, the Court held that employers who engage in intentional discrimination can prevail merely by establishing that an otherwise legitimate business reason motivated the hiring, promotion, or discharge of an employee. At the hearings, it was suggested that as the law now stands, a little bit of racial, ethnic, or gender discrimination by an employer is okay, as long as the employer can show that the discriminatory motive was accompanied by a second, lawful motive.

If victims of employment discrimination are somehow able to overcome the barriers to initiating and proving their claims, they are then confronted with additional barriers in securing relief. As a result of the decision in Martin versus Wilks, Court-approved consent decrees are now vulnerable to unlimited attack. The president of the American Bar Association noted that numerous, long-settled discrimination cases have now been reopened, and precious judicial resources are now being wasted on issues resolved years earlier.

The bill we have before us today, the Civil Rights Act of 1990, simply restores the legal protections which made progress for minorities and women possible over the last decade. In addition, H.R. 4000 provides religious and ethnic minorities and women the same right to recover damages for intentional employment discrimination now available to racial minorities.

The bill does not pressure employers to adopt hiring quotas to avoid liability. There was no widespread resort to hiring quotas after Griggs. Moreover, the statute was amended to specifically tell employers not to resort to quotas. H.R. 4000 simply restores the status quo, by placing the burden of proof on the employer to demonstrate business necessity. Nor does the bill make it difficult for employers to defend their hiring standards. Over the last three decades, employers have demonstrated repeatedly that they can meet their business needs and, at the same time, adopt measures to remove barriers to equal employment opportunity for minorities and women.

Most importantly, the Civil Rights Act of 1990 simply states what ought to be obvious: Under no circumstances will discrimination in the workplace be tolerated in our society—not even a little bit. The bill reaffirms congressional intent to relegate discrimination in the work place to its rightful place—as a part of a closed chapter in our Nation's racially blemished history. Anything less, any tolerance of such practices, would compromise the foundation upon which the future greatness of our democracy rests. In this regard, I am reminded of observations made almost 30 years ago by the late President John F. Kennedy. His comments are as significant today as they were then. In 1963, he said:

> Race discrimination hampers our economic growth by preventing the maximum development and utilization of our manpower. It hampers our world leadership by contradicting at home the message we preach abroad. It mars the atmosphere of a united and classless society in which this Nation rose to greatness. It increases the costs of public welfare, crime, delinquency, and disorder. Above all it is wrong.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in very strong support of H.R. 4000, the Civil Rights Act of 1990, and against the killer amendments which will be offered today.

We have spent a great deal of time in this Congress trying to clean up the messes Ronald Reagan left behind. It hasn't been easy. From the environment to the S&L scandal to the budget deficit, it's been our misfortune to discover that the Reagan legacy is all too enduring and will be something that we, our children, our grandchildren and perhaps even their children will have to struggle with for many years to come.

Today, however, we have the opportunity to push aside relatively cleanly and quickly at least one of Reagan's burdensome legacies; by enacting the Civil Rights Act of 1990 we can prevent the poisonous civil rights policies of the Reagan administration from being permanently embedded in the laws of our Nation.

For African-Americans and other minorities, the reign of Reagan was catastrophic. The enormity of the changes that Reagan and the neanderthal right succeeded in effecting in the status of minorities in this country over the last decade is frightening to contemplate. Years of steady progress lurched to a halt; the clock didn't just stop—it started ticking backward. Here again in America, racism has been made socially acceptable. There are lynchings in the streets of Bensonhurst and Howard Beach. Here again in America, racism has been made politically viable. No less than the imperial wizard of the Ku Klux Klan now feels safe to take off his hood and run for political office. And now thanks to Ronald Reagan's appointments to the Supreme Court, here again in America, racism in the workplace has been made legally tenable.

In its 1989 civil rights decisions, the Reagan Supreme Court declared open season on affirmative action and equal employment opportunity in America. Years of consensus and consistent precedent were swept aside. In the Wards Cove decision, in particular, the Court attacked what has been one of the driving forces behind the economic advancement of minorities in this country—the 1971 unanimous Burger Court decision in Griggs versus Duke Power Co. that title VII of the Civil Rights Act prohibits "not only overt discrimination but also practices that are fair in form, but discriminatory in operation". Critical protection against systematic racial and sexual discrimination in the workplace has been dramatically scaled back. In essence what the Court has said to employers in Wards Cove is that while you still can't commit blatant, obvious acts of discrimination against minorities and women, if you are sophisticated and discreet about it, we will look the other way. You cannot hang a "No Blacks Allowed" sign on your door, but if you're clever and come up with a standardized test or some other superficially neutral ruse that achieves exactly the same result, no one will stand in your way. You can be a bigot, in other words, so long as you are a kind and gentle one.

H.R. 4000 would restore the protections afforded by the 1971 Griggs decision against systematic discrimination. It would put the burden back on the employer to try to justify discriminatory practices. Once a person proves that a practice has a disparate, discriminatory impact, the employer would be required to try to justify the practice by showing that it is necessary to the operation of its business. If it could not, the practice must cease.

Opponents of H.R. 4000 have declined to debate this issue on its merits, choosing instead to mount a smear campaign against the legislation. Over and over, without foundation, without evidence, they have loudly insisted that this bill will somehow require, authorize, or encourage employers to adopt quotas in hiring and promotions. In reality, H.R. 4000 would prohibit such quotas and the sponsors of the bill have repeatedly amended it to make this absolutely clear. We will vote today on yet another one of these redundant amendments to restate the ban on quotas yet again. But still the shouting, the nasty smears have continued. Still the White House and others insist that this is somehow a "quota bill".

What really seems to be behind all this phony talk about quotas is no high-minded commitment to principle but a small-minded peevishness. The Chamber of Commerce and the radical right don't like this bill and the Griggs decision it would codify because they consider it a hassle, an inconvenience to have to scrutinize their hiring and promotion policies to assure that they do not cause discrimination. As with the Fair Labor Standards Act, the Occupational Safety and Health Act, and every other law we have on the books to try to assure some measure of dignity and equity in the workplace, big business just couldn't be bothered with civil rights. Equal opportunity is a nuisance.

It's conceivable, I suppose, that some of the opponents of H.R. 4000 are not quite so small-minded and that some of them are actually sincere in their misty-eyed paeans to a color-blind society and their appeals to put the past behind us. But sincere or not, they couldn't be more wrong. After two centuries of genocide, slavery, and oppression, you cannot, in 1990, build a color-blind society by being blind to people of color and you cannot put the past behind you by denying it. We can move forward toward a color-blind society only if and to the extent that we confront our ugly history and begin to act to fulfill this Nation's obligation to try to repair the horrors that have been inflicted upon African-Americans in the past. It isn't easy; it isn't convenient; it isn't cheap. As Martin Luther King put it.

> When millions of people have been cheated for centuries, restitution is a costly process * * *. Justice so long deferred has accumulated interest and its cost for this society will be substantial in financial as well as human terms.

In 1990, the debt still to be repaid is large; the gulf between black and white America is wide. The black poverty rate is 3 times that of whites. The black unemployment rate is 2 times that of whites. Black per capita income is half that of whites. And the median net worth of black households is one-tenth that of whites.

To make matters worse, this vast gulf has been widening, thanks in large part to the civil rights and economic policies of the Reagan and now Bush administration. We are moving backward. In its recent report "A common Destiny" the National Research Council of the National Academy of Sciences concluded that if we continue down this regressive path laid down during the Reagan era, if current trends in the economic situation of African-Americans continue unchanged, by the year 2000, the economic status of African-Americans relative to that of whites will be the same as what it was in 1960—4 years before the original Civil Rights Act was enacted.

This does not have to be. We have the opportunity today to help stop the backward slide, to repudiate the Supreme Court's attack on equal employment opportunity and restore the vitality of our civil rights laws. The LaFalce substitute, in contrast, would lock us into the disastrously regressive course set by Ronald Reagan. Represented as a compromise, the substitute is in fact nothing of the kind. It does not overturn most of the destructive civil rights decisions made by the Court last year; it does not modify them; and it does not clarify them. Instead, it codifies them as law. Nor, for that matter, does the LaFalce substitute bring anything particularly new or constructive to this debate. The substance of the substitute is identical to what John Sununu offered months ago as the White House's initial bargaining position in negotiations with the Senate and the civil rights community. Indeed, perhaps in the interest of accuracy, we should refer to this alternative not as the LaFalce substitute, but as the Sununu substitute.

I urge my colleagues to defeat the killer substitute and enact the Civil Rights Act of 1990 without weakening amendments. Let's put at least one of Ronald Reagan's burdensome legacies behind us this year. Let's get the clock moving forward again on civil rights in America.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, the Civil Rights Act of 1990 is a bill that we can all be proud of. The bill will overturn the Supreme Court decisions in Patterson versus McLean Credit Union, Wards Cove Packing Co. versus Antonia, Martin versus Wilks, Price Waterhouse versus Hopkins, and Lorance versus AT&T. It is necessary that we clarify the intent of our prior legislative pronouncements, and correct judicial interpretations that clearly fall short of that mark.

The substitute amendment would devastate the Civil Rights Act in five important ways:

First, it would make it impossible for women and religious minorities who are bias victims to recover any damages whatsoever. This is because the amendment's so-called $100,000 equitable relief provision is patently unconstitutional because it violates the fundamental constitutional right to a jury trial in damages cases under the seventh amendment.

Second, it would adopt rather than overrule the damaging Wards Cove decision. It would require bias victims to bear the burden of proof on business necessity and it would adopt the weakened Wards Cove definition of business necessity.

Third, it requires that bias victims prove that race or an other prohibitive

motive was a "major contributing factor" in a job decision. This would make the law even worse than under the Supreme Court's Price Waterhouse decision, and could actually allow employers to make job decisions partly on bias.

Fourth, it would endorse and codify all or part of each of the restrictive Supreme Court decisions which H.R. 4000 was introduced to overrule.

Fifth, it would even codify the holding in Patterson that on-the-job racial harassment is legal under 42 U.S.C. 1981 by failing explicitly to prohibit bias with respect to the "terms and conditions" of a contract as H.R. 4000 does.

H.R. 4000 is not, as some would suggest, a bill which requires or encourages quotas in the workplace. To the contrary, the civil rights bill will help ensure that individuals not only have the right to be free from discrimination in getting a job, but will also be protected from racial harassment and discrimination once on that job. H.R. 4000 will ensure that minorities and women will be equal participants in the workplace.

I urge my colleagues to vote yes on H.R. 4000.

The CHAIRMAN. The Chair will advise Members controlling the debate that the gentleman from California [Mr. HAWKINS] has 13 minutes remaining, the gentleman from Pennsylvania [Mr. GOODLING] has 6 minutes remaining, the gentleman from Texas [Mr. BROOKS] has 9 minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 2 minutes remaining.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a fine Member, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I want to thank the chairman of the Committee on the Judiciary for yielding to me, and I would also express thanks to the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] for doing fine work on such a good bill.

Mr. Chairman, I rise to express my strongest possible support for passage of the Civil Rights Act of 1990. This is a crucial time in our Nation's history. Once again the Congress is faced with one basic question: Will we act to ensure the blessings of liberty to all Americans? Or will we repeat the tragic times when the Congress, the Supreme Court and the executive branch have reinforced the prejudice and fear which has caused so much turmoil in our society? Mr. Chairman, I think the question can best be expressed to the title of an old civil rights song, "Which Side Are You On, Which Side Are You On?"

Mr. Chairman, some colleagues are arguing for the substitute on the basis that we need to send a bill up that the President is guaranteed to sign. They say that those Members who want to pass this act are trying to embarrass the President. That is certainly not my intention. However, neither do I want to appease the President by any means, to pass a civil rights bill with any retrogression. We do not want to embarrass the President, but neither do we want to embarrass the catalyst thousands who sacrificed life and limb and property, putting themselves in fear of great bodily harm, just to pass the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Laws, Mr. Chairman, which have been eroded by a very conservative Supreme Court. So this is not just a civil rights bill, this is a civil restoration act.

Colleagues argue that the Civil Rights Act before Members will force employers to hire by quota. However, this bill has been amended to address that issue. It will say unequivocally that "Nothing in the Act shall be construed to require an employer to adopt quotas." It will say that the "mere existence of a statistical imbalance" in the work force is not sufficient to find a violation, so the issue of quotas has been addressed.

Mr. Chairman, in conclusion, we still have discrimination based on race, on sex, and religion in this country, whether it is on some golf course or whether it is in the workplace. The best way to remember those who sacrificed for freedom and justice is to continue that cause today. I urge my colleagues to vote against this substitute and to vote for the Civil Rights Act of 1990.

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Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of the Civil Rights Act of 1990. I want to commend our distinguished colleague from California, Chairman HAWKINS for the diligence and patience he has demonstrated since this bill's introduction. All in this Chamber and indeed in this country are greatly indebted to him. I want to commend as well our distinguished colleagues Mr. BROOKS and Mr. EDWARDS for their outstanding work.

The civil rights movement in this Nation has experienced a long and arduous journey. A journey which at times has been plagued by strife and frustration but which has also overcome many obstacles such as segregated schools and lunch counters and the exclusion of minorities from the political process. Unfortunately, last year the Supreme Court set up a new roadblock with five decisions which severely weakened equal employment protection for minority groups and for women. Today, we have the opportunity to remove that roadblock and to continue the journey by enacting the most significant civil rights bill since 1964.

The Civil Rights Act of 1990 is for the most part a restorative bill. It overturns last year's Wards Cove Packing Inc. versus Atonio decision which unduly placed the burden of proof in discrimination claims on the plaintiff. This legislation restores the landmark Griggs versus Duke Power Co. decision which forbade both employment practices with a discriminatory intent and those that have a discriminatory effect on minorities and women. This decision has worked successfully since 1971 and never required the business community to adopt quotas. To call the bill before us a quota bill is pure bunk, it clearly does not go beyond the standards set in Griggs.

In regard to damages, the bill extends remedies to enable all victims of deliberate discrimination to recover compensatory damages in appropriate cases. As extensive congressional testimony has documented, this section is necessary to deter intentional job discrimination and to ensure that all victims have access to appropriate remedies.

We are not casting a vote for a few individuals and a handful of advocacy groups as the measure's opponents contend. We are casting a vote for a system of government which endeavors to represent, protect, and respect all its peoples.

I urge my colleagues to cast a decisive, courageous, and principled vote for equality and to support the Civil Rights Act of 1990 with no weakening amendments.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I rise in support of the bipartisan substitute.

Mr. Chairman, I am very proud to be here. I am proud to know the gentleman from California [Mr. HAWKINS]. I am proud to know the gentleman from Michigan [Mr. CROCKETT]. I am proud to know the gentleman from Georgia [Mr. LEWIS]. I will never be able personally to assume and feel the agony of the civil rights movement the way they have, but I do feel that we should be concerned that only we have in our hands the ability to right a wrong.

The assumption is that the people who create the jobs is that they are wrong, they are bad, they will not do the things on their own. Words such as "bigoted," "mean-spirited," "discrimination," "unfairness," have wafted through this debate, and I think that is wrong.

I, in 1964, when the civil rights bill was passed, became chairman of a company, and I fought alongside minorities in extending the right, moving into the South, moving into minority areas, battling my white associates,

and I feel a little bit of what we are trying to do. It was the right thing, and it was the right thing because it was the important thing for business.

However, Mr. Chairman, the weakness in this bill, in the Hawkins bill, with all great credit to him, is the quotas. And I do not say that there is a black and white case here. But I do say that quotas are something which are inevitable, and I, as a businessman, would not take a chance operating without them, and I think that is wrong. I want to fight and encourage the employment in the upward mobility in this society of ours, but the quota route is the thing that bothers me more than anything as a practical businessman supplying the jobs that those people need the most.

The gentleman from Mississippi's, Mr. ESPY, "Which side are you on? Which side are you on?"; I want to be on his side, but let us think of those people who we are trying to help.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, like many of my colleagues and other leaders across the Nation, my public life has been dedicated to protecting and promoting the basic equal rights of all Americans. For many years our Nation made tremendous strides in the struggle to overturn time-honored notions and traditions of discrimination against blacks, women and other minorities.

I am proud to have participated in the struggle of the 1960's which today we remember as the golden era of the civil rights movement. But, just as nothing is more permanent than change, over the last decade, the pendulum of history has swung backward and today we are experiencing an era of regressive policymaking that has thwarted our progress toward achieving genuine equality for all American citizens. The years under the Presidency of Ronald Reagan were particularly mean and harsh for black citizens.

A Supreme Court greatly influenced by his anti-civil rights, anti-black appointees reversed civil rights laws Congress enacted to prohibit discrimination. These decisions have undermined efforts to improve the opportunities for women, racial minorities and physically handicapped to secure jobs and opportunities traditionally, historically denied them.

These biased court rulings have so badly mangled long-decided employment discrimination issues and eviscerated the legal protections needed to prevent discrimination in the workplace that we have no choice but to enact new legislation. The Civil Rights Act of 1990 will amend the Civil Rights Act of 1964 by closing the gaps in the law that allows the courts opportunities for judicial misinterpretation and permits the Supreme Court latitude to obliterate the real meaning of the Civil Rights Act.

Mr. Chairman, those opposing this legislation boastfully proclaim belief in the principle that all people are created equal. But their logic is distorted when they oppose the basic democratic values that assure Americans equal opportunity and freedom from discrimination because of skin color or gender. They are the values that make our Nation a model in the eyes of the world. Mr. Chairman, a revolution is sweeping the world. It is no time for us to falter in our forward march toward individual rights and freedoms.

Mr. Chairman, the Civil Rights Act of 1990 may well be the most important bill we have considered in this session of Congress. As with all major legislation, it reflects a compromise. For many, the bill does not reach far enough. I would like to see stronger prohibitions against discrimination and stiffer penalties for those who violate the civil rights of others. But, in the interest of successfully reaching the goal of passage we have made accommodations and have compromised. But we cannot wait any longer and cannot compromise any further. Today we should speak up for the principles upon which this Nation was founded. We should reject all efforts to weaken the Civil Rights Act of 1990. We should give this legislation our overwhelming approval.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I want to speak to you today as a southern Democrat, a Member of Congress from the deep South. I grew up in rural Alabama. I saw those signs that said white and colored—white men, colored men—white waiting, colored waiting. I have tasted the bitter fruits of racism and discrimination. But because of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, we have experienced a nonviolent revolution. A revolution, not only of values, but of ideas. Because of the Voting Rights Act of 1965, my own mother was allowed to register to vote for the first time at the age of 51.

Today, I feel like I'm watching a 26-year-old TV rerun. In 1964, we were told that the passage of major civil rights legislation would be bad for business. We were told that civil rights legislation would result in chaos and would create a field day for lawyers and for litigation.

Today, we are hearing those same tired arguments—that civil rights legislation is bad for business—that it would result in chaos—that the stars would fall out of the sky in Texas, in Alabama, in Georgia. But the stars didn't fall from the sky in 1964 with the passage of the Civil Rights Act. They didn't fall in 1965 with the passage of the Voting Rights Act. The stars didn't fall from the sky with the Fair Housing Act. And, the stars aren't going to fall from the sky with the passage of the Civil Rights Act of 1990.

I know we have come a distance. We have made progress since the 1964 Civil Rights Act and the 1965 Voting Rights Act. But the fact is, the U.S. Supreme Court has recently made it harder for women and minorities to prove discrimination in the workplace.

Now, the administration wants to amend the Civil Rights Act of 1990. But, my friends, we all know the intent of the Michel substitute. The Michel substitute is a dagger in the heart of the Civil Rights Act. A vote for the Michel substitute is a vote against civil rights. Mr. Speaker, we cannot sweep the problem of discrimination under the rug by shielding ourselves behind the Michel substitute.

As Members of Congress, we are in a position to create a climate—an environment—to pave the way for the private sector to adhere to equal opportunity.

For so many years, we had a policy in this country of keeping people out. This act futher affirms the participation of all of our citizens. We have a moral obligation—a mandate—a mission to be a headlight rather than a taillight.

Some of my colleagues will still insist that this legislation is not needed—that it will hurt business. But we don't just represent business. In some of our congressional districts, 20, 30, 50 percent of our electorate are women and minorities.

Mr. Chairman, I have seen and tasted the bitter fruits of racism. It is a fact that racism is still deeply embedded in every corner of our society—in both the public and private sector. And we must use the instrument of law to remove those scars of discrimination from our society. Our society will never be whole until all Americans are able to participate fully and share in the American dream regardless of race, religion, sex, or national origin.

When historians pick up their pen and begin to write about this Congress, don't let it be said that on your watch, the 101st Congress slept through a nonviolent revolution and voted to weaken the Civil Rights Act of 1990.

I say to you, my colleagues—keep the faith—don't give up. We are still on the way to an interracial democracy. Don't be sidetracked by the Michel substitute. Keep your eyes on the prize.

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Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, today we have an opportunity to insure equal rights under civil rights. For 14 years, victims of intentional discrimination have been able to receive compensation for damages, except for women. We have been sending the wrong signal. But today we can remove this inequity. We can vote for the Hawkins bill. It allows women damage remedies that are already

available to victims of race discrimination.

The civil rights bill before us would guarantee fair treatment and effective relief for all victims of intentional discrimination. Women who have been victims of sexual discrimination and harrassment can now be vindicated in the courts. With more and more women entering the work force, we must ensure they have the same rights that have been afforded everyone else.

I urge my colleagues to oppose the Michel bill. It sends a dangerous message that some kinds of discrimination are less serious and less deserving of full relief. This cannot be tolerated.

I urge my colleagues to support equal protection against discrimination. We must support meaningful deterrents. A slap on the hand from the EEOC just isn't good enough. We must vigorously continue to uphold civil rights and guarantee equal employment opportunities for all.

Mr. GOODLING. Mr. Chairman, I yield our remaining time to the gentleman from Texas [Mr. BARTLETT].

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. BARTLETT. Mr. Chairman, it is with some sadness that I sit here this afternoon and listen to this debate and listen to the sometimes overblown rhetoric as Member after Member has risen to talk about restoring the Civil Rights Act of 1964. My sadness is that those individuals could not have read H.R. 4000 that is before us. I would say to my colleagues before you vote, read the bill.

The fact is that H.R. 4000 has very little to do with overturning the Supreme Court decisions of 1989. That is a clever disguise. It is a clever charade, but this bill goes way beyond the Civil Rights Act of 1964. It goes way beyond any civil rights law that was in place before or since the 1989 decisions.

As other speakers have said, I am from the generation of the 1960's. I hate the Jim Crow laws because I lived with them. I hated the segregation of the South and I hate the segregation of public housing of the Nation's big cities today, and I hate the discrimination that still unfortunately does exist too often in the workplace; but the way to stop that discrimination is not with quotas. It is not with hiring more lawyers. It is not with more legal fees. It is not with multimillion dollar lawsuits. The way to stop the discrimination is by restoring the Civil Rights Act of 1964, but not going so dramatically beyond it.

The bottom line for us on this vote tonight is that the LaFalce substitute restores the Civil Rights Act of 1964 as it has been enforced by the Griggs decision of 1971, because the LaFalce substitute takes the language of the Griggs decision of 1971 as enforced up until 1989, no more, no less.

H.R. 4000, I would say to my colleagues, by contrast does two things which I do not believe the country or the Constitution or any Americans really want us to do. It does two things that are quite radical that have never been done before in civil rights laws.

First, it requires quotas. Now, I have heard speakers say that we will not get quotas from this bill, and I would suggest that you can run from those quotas, but no one in the workplace can hide from those quotas because the only way that an employer can comply with this bill is to adopt a quota system.

Second, it imposes new, radical, unheard of penalties, and lawsuits. It imposes a new set of jury trials. It imposes in section 9 guaranteed legal fees, even if those legal fees, it says in the bill, are not in the best interests of the victim. It imposes punitive damages and compensatory damages never before a part of the Civil Rights Act of 1964, not a part of it prior to 1989 and not a part of it today.

The only parties that benefit are plaintiffs' attorneys and those who make their living that way.

The Civil Rights Act of 1964 was based on two principles which the gentleman from New York [Mr. LAFALCE] restores. First it is to make whole the victim, to identify the discriminatory practice, to restore to that person who was abused all that he or she may have lost, and then to stop that practice. That is what the LaFalce bill does.

H.R. 4000 does exactly the opposite.

Second, to identify the discriminatory practice itself and then outlaw it.

H.R. 4000, by contrast, says that the plaintiff only demonstrates that there is a disparate impact in the workplace, that the percentages are wrong.

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Then the burden of proof shifts to the employer, and whether or not the plaintiff has identified a practice that is discriminatory, the employer must prove somehow in a black box that all of his employment practices are somehow nondiscriminatory even though none of them have been alleged to have been discriminatory.

H.R. 4000 then also says to the employer that the employer who upon trying to identify the black box, even if he can identify the employment practice, he would then have to prove that employment practice is required for the successful job performance of the business, an absolutely impossible burden of proof that was not imposed by the Civil Rights Act of 1964, not imposed by Griggs of 1971, not imposed by any court decision in the history of the land, and yet in the name of restoring something that never existed we radicalize the process. We make the process more litigious than it has ever been. We deny civil rights. We clog up the courts, and we deny victims, while granting more money to their attorneys. It is wrong.

The LaFalce substitute is right.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the remainder of my time, 1 minute.

Mr. Chairman, this has been a vigorous debate, and those who have supported the Michel-LaFalce substitute, I believe, have dramatized the difference between the two proposals, and we have stuck to the issues and talked about those Supreme Court decisions rather than appealing to nebulous principles or using catchwords and buzzwords.

I think from this debate it is clear that the Michel-LaFalce substitute is a moderate approach to a real problem that has been caused by some Supreme Court decisions, but that the Hawkins-Edwards bill is overkill, one which will result in quotas and one which will increase litigation and the cost of litigation significantly. That is the difference between the two, and that is what we will be voting on later on.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes, the remainder of my time, to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume. I will not use the entire 10 minutes. I think we should go on.

Mr. Chairman, in closing out the debate and going on to the amendments which we hope to present tonight I would again indicate that as a matter of actually assuring the Members on the quota issue.

I think the amendments that we will present will reinforce some of the statements that we have made. I consider that the issue has become rather clear as the debate has gone on. I think it is pretty obvious that H.R. 4000 has been carefully crafted. It has been scrutinized. It has been heard in committees for the last 6 months. It was not crafted in the last 48 hours. It was not contested as to its authorship, that it simply attempts to restore the law to its dignity that it occupied prior to the 1989 Supreme Court decisions. It is, therefore, a reaffirmation of the Civil Rights Act of 1964.

On the contrary, the so-called substitute, and I say so-called substitute, because I cannot possibly identify its genesis. Nobody seems to claim it. It has been referred to as the substitute, as the Michel substitute, as the creation of the gentleman from New York [Mr. LAFALCE]. It has been referred to even today as a compromise Republican-Democratic authorship, and so it has a phantom existence, very difficult to identify. I think that Members who have seen the language will recognize it as being the same document although it has had many

claims as to its authorship. It is the same language in a bill that was introduced in the other body, and then withdrawn because it lacked support, and so it ends up here with various assertions as to what it is. It is difficult to say what it is. I think it is difficult to say what it is because it accomplishes nothing.

The bill seeks to legalize the disputed Supreme Court decisions of 1989. That is all it does. It reaffirms them and puts them into the statutes, and that is about all that it does, and that is saying the best thing about it. So that it does not make any difference whether we pass it or whether we do not, because if we pass it, it simply reaffirms the law of the land because it legalizes the Supreme Court decisions anyway, and if we fail to pass it, it will be the same.

There has been some reference as to whether or not the President will sign it, and we have been told today in a vague sort of a way that he may have a rose garden ceremony if that bill passes. I cannot believe that that is worth what it really says. I think the President should speak for himself, and I think that we should not take his name in vain as to what he will and what he will not sign.

Supporters on both sides, including the Civil Rights Commission and the Chairman of that Commission that he named, have said that he should sign it, and others say that he should not.

Mr. Chairman, may I simply say that the issue then is whether we want to support the Civil Rights Act of 1964 or whether we want to support a proposal that accomplishes nothing even if the President did sign it. I think this body should exercise its accountability and do what it thinks best, and I submit that there is only one thing before us, either we are for the Civil Rights Act of 1990 or we are for nothing, which is what it amounts to.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990, a measure which I've cosponsored, and in opposition to the Michel substitute.

While this Nation has come a long way in the struggle to end discrimination in employment and on the job, the struggle still continues. The recent report of the U.S. Civil Rights Commission notes that unfortunately discrimination in employment still exists and frequently continues without a remedy for its victims. H.R. 4000 reverses or modifies several recent adverse U.S. Supreme Court decisions which collectively have had the effect of rolling back the clock on civil rights and narrowing the remedies for victims of discrimination in hiring practices and in actual employment.

In Patterson versus McLean Credit Union, the Court departed from previous judicial interpretations of section 1981 of the Civil Rights Act of 1966, which prohibits discrimination in making and enforcing private contracts, to find that this section only applies to discrimination in the formation of a contract and not to problems that may arise later from the conditions of continuing employment. H.R. 4000 clarifies congressional intent and reinstates prior Federal judicial interpretations to include all aspects of a private contract, including the formation, performance, modification, and termination of all private contracts.

In Wards Cove Packing Co. versus Atonio, the Court modified its holding, in Griggs versus Duke Power Co., a 1971 case which held that employment practices which have a disparate impact upon women and minorities are prohibited by title VII of the 1964 Civil Rights Act unless the employer can prove that the practice is required by business necessity, defined as significantly related to successful job performance. In Wards Cove, the Court abandoned prior interpretations of title VII by shifting the burden of proof on the question of business necessity from the employer to the plaintiff to prove that the employer's discriminatory practice is not required by business necessity. H.R. 4000 draws upon the language from the holding in the Griggs case to codify the meaning of "business necessity." Furthermore, the legislative proposal before us stipulates that unsubstantiated opinions and hearsay are not sufficient in deciding whether the business necessity standard has been met. Rather, demonstrable evidence is required. Also, a plaintiff is required to be specific about which practice or practices of an employer result in a disparate impact.

Some opponents of this bill have suggested that this is a quota bill which would, in effect, force employers to adopt quotas in hiring to avert law suits under title VII. This is clearly not a quota bill. Quotas are illegal. Nowhere does the bill mandate quotas, either expressly or by implication. Indeed, the bill defines "business necessity," stating Congress' intent to codify the Griggs defintion of business necessity, and finally states that amendments to the Civil Rights Act shall not be construed to require an employer to adopt hiring or promotion quotas. The Griggs holding has been the law of the land for nearly two decades. During that time, employers have not moved to adopt hiring quotas based upon race or sex. It is simply not reasonable to assume that by codifying a 19-year-old holding, employers will suddenly be forced to resort to hiring quotas.

The Michel substitute to the proposal before the House uses the same definition of "business necessity" used in the Wards Cove case; the same case which abandoned the Griggs standard and which H.R. 4000 is intended to reverse. Additionally, the Michel substitute eliminates punitive damages for the victims of intentional discrimination. Instead, the substitute would permit a capped payment of up to $100,000 but only in circumstances where back pay is not available and where additional equitable relief is necessary to deter the employer from future illegal conduct, not to punish past illegal conduct.

While punitive damages as contained in H.R. 4000 would represent a new remedy under the provisions of title VII, nevertheless, the Michel substitute would be worse than simply preserving the status quo since it would actually set a cap on damages which would limit what a judge could find regardless of how grievous the harm to the plaintiff or how heinous the nature of the discrimination. This is not in the tradition of modern American jurisprudence and law which has been able to recognize that for a defined wrong there should be a defined remedy. Instead, justice would depend solely upon whether the plaintiff received back pay and whether a judge was predisposed to supplement that back pay with an additional amount not to exceed $100,000.

In Price Waterhouse versus Hopkins, the Court implied that it may be permissible for employers to intentionally discriminate based on race, color, religion, sex, or national origin, as long as such discrimination is not the primary motivating factor in deciding whether to hire, dismiss, or promote an employee. This decision is particularly unsettling since it implies that some forms of discrimination can be legally sanctioned as long as other factors can be cited to explain why an individual was not hired or promoted or why someone was terminated from his employment. That is totally at odds with nearly a quarter century of American jurisprudence and the historical role of the courts in protecting the victims of discrimination rather than the perpetrators of intentional discrimination. H.R. 4000 clarifies that it is illegal to discriminate period.

There is concern regarding the bill's authorization of punitive damages in title VII cases for the first time ever. Current remedies under title VII include only injunctive relief, back pay, and attorney's fees. This new provision does not ensure as some have speculated, a massive new backlog of cases or unreasonable jury awards. Critics of this provision seem to have little faith in the intelligence and common sense of jurors and judges in this process to distinguish meritorious claims from unsubstantiated claims. Experience has shown that plaintiffs generally cannot afford to bring frivilous or unsubstantiated title VII claims in the Federal courts. The bill

provides that any party in a title VII action may demand a jury trial. Federal judges also have the authority, which they are not hesitant to invoke, to modify and even to set aside an unreasonable or unsubstantiated award for damages. Such decisions are, of course, fully subject to appeal.

Mr. Speaker, there has been much criticism lately about judicial activism and about judges who reach beyond the issues presented before them to make new laws. Some of these critics, however, only seem to be concerned with a style of jurisprudence which is sympathetic to recognizing claims of discrimination. They are apparently not bothered by a judicial philosophy that goes out of its way to curtail recognized legal standards. The cases which this legislation seeks to reverse or modify all involve instances where certain justices of the Supreme Court or lower Federal court judges have chosen to ignore established legal principles and stare decisis to make new laws by rolling back the rights of victims of discrimination. Until recently, the trend since the passage of the Civil Rights Act of 1964 has been to protect the legal rights of victims of discrimination in housing, employment, and other aspects of modern American life. If the courts are now going to abandon this role by reaching beyond the issues presented to roll back the rights of victims of discrimination, then Congress must surely act to clarify the law's intent. That is what this legislation does. I urge my colleagues to join me in opposing the Michel substitute and voting for the passage of H.R. 4000.

Mr. KLECZKA. Mr. Chairman, I urge my colleagues who have any lingering doubts about the Civil Rights Act of 1990, H.R. 4000, to lay them aside and vote for passage of this necessary legislation today.

A lot of misunderstanding about this legislation is circulating. As a cosponsor of H.R. 4000, I watched in dismay during the past months as misunderstanding of it gathered momentum, generating strong fears that restoring equal opportunity in the workplace would create a hostile business climate in America.

Nothing could be farther from the truth. The Civil Rights Act of 1990 simply removes many barriers to relief from employment bias that face women and racial, religious, and ethnic minorities that resulted from recent Supreme Court decisions overturning established law. Contrary to what many opponents claim, this legislation is not a quota bill.

A close examination of two of the more controversial measures in H.R. 4000 may help diffuse some of the criticism. First, as to quotas, the bill adopts the Griggs business necessity standard overturned in the Wards Cove versus Atonio case. During House hearings on this legislation, witnesses were unable to produce a single case in which this standard led to employment quotas during its 18 year history. The bill explicitly codifies the Griggs standard. Finally, H.R. 4000 clarifies that nothing in it may be "construed to require an employer to adopt hiring or promotion quotas". Given these strong protections, additional precautions seem unnecessary.

On this issue, I agree with the Milwaukee Journal's excellent analysis that H.R. 4000 "should be enough to allay any fears that companies would have to resort to rigid quotas in order to avoid liability. They wouldn't be permitted to erect artificial barriers against minorities and women, as has been done all to often, but neither would the companies be forced to abandon valid job requirements."

As for monetary damages, this legislation does not aim to make the cost of running a business the right way an unbearable burden. Instead, it provides that employers who intentionally discriminate would be subject to increased liability.

As a deterrent to job discrimination, H.R. 4000 would add compensatory and punitive damages under title VII for victims of intentional job bias based on sex or religion. Title VII remedies are now limited only to back pay. Expansion would eliminate the differences between title VII remedies and section 1981 remedies for racial discrimination. As you may know, in the 100th Congress I attempted to expand section 1981 to apply to women [H.R. 4132]. Applying section 1981 compensatory and punitive damages to the title VII statute covering gender bias, as this bill does, is a welcome step in that direction.

Two years ago Congress overwhelmingly approved a provision similar to the H.R. 4000 title VII expansion in the fair housing amendments. This law provides compensatory and punitive damages for victims of race, sex and disability bias. Notably, President Bush—who now opposes title VII expansion—was one of the first Reagan administration officials to endorse such broadening of the historic civil rights statute in the fair housing amendments.

Efforts to make it explicitly clear that H.R. 4000 is not a quota bill, have my full support. It is for this reason that I favor the Andrews-Neal amendment. This useful measure clarifies Congress' intent that absolutely nothing in H.R. 4000 requires employment quotas on the basis of race, color, religion, sex or national origin. A statistical imbalance in an employer's work force is not alone sufficient to establish a case of disparate impact either, according to this measure.

The Hawkins-Brooks-Tallon amendment capping title VII damages for employers with moderate-sized work forces also has my support. This measure recognizes the constraints faced by small busineses by limiting title VII damages to $150,000 or the amount of back pay and compensatory damages owned, whichever amount is greater.

Together, both of these amendments should help ensure that misconceptions about H.R. 4000 are dispelled, and that American businesses and workers are treated fairly by the Nation's equal opportunity laws.

Voting for H.R. 4000 will make it clear that our government will neither tolerate nor support employment bias. Employment discrimination is repugnant in a democracy. For the well-being of our country, discrimination in any form must not be permitted. It is for this reason that I urge my colleagues to cast the right vote—for passage of the Civil Rights Act of 1990.

Mr. RAY. Mr. Chairman, today we are considering H.R. 4000, the Civil Rights Act of 1990. It is a bill which all of us would like to support. Unfortunately, there are some serious problems with this legislation which we need to address.

The Michel-LaFalce substitute addresses a number of problems with the bill. It provides some clarifications to the bill without changing the primary thrust of the legislation—which we all agree with—which is to provide protection to workers from discrimination in the workplace.

I am fearful that without the changes which would be made by this amendment that we would be left with a bill which would encourage lawyers to file frivolous lawsuits against employers. The cost of defending oneself against a lawsuit is very expensive and could force many small businesses into bankruptcy. Even if they win the case, many small businesses will spend so much money on attorney fees and other associated costs that they will be financially weakened or perhaps put out of business all together.

We cannot continue to put these types of burdens on small businesses. The Michel-LaFalce substitute addresses these problems in the bill in a commonsense way, and I strongly urge my colleagues to support the substitute amendment.

Mr. FAZIO. Mr. Chairman, I strongly support H.R. 4000, the Civil Rights Act of 1990. I commend the bill's sponsor, Chairman GUS HAWKINS, for his efforts on behalf of H.R. 4000. Passage of this legislation is a fitting tribute to his long and illustrious career. I also applaud Chairman JACK BROOKS and Chairman DON EDWARDS for their roles in bringing this measure to the floor.

H.R. 4000 is a fair bill which will right the wrongs of several recent Supreme Court decisions with regard to employment discrimination. Contrary to what opponents of this measure claim, nothing in this bill will mandate or encourage quotas. It merely reaffirms our commitment to ensuring equal opportunity in the workplace and continues our rich tradition of guaranteeing equality for all.

It is unfortunate that we must revisit this issue, more than 25 years after the landmark Civil Rights Act outlawed discrimination and became the standard for equal opportunity. Yet again, we find ourselves taking up the fight to stop discrimination in the workplace and fighting the same civil rights battles we have already fought and won.

We have an obligation to provide legal protection against discrimination for women and minorities and ensure that they are not treated as second class citizens. Our Nation's longstanding commitment to equality demands

that any discrimination based on race, gender, religion, or national origin will not be tolerated. Only the strong protections offered in H.R. 4000 will give victims of employment discrimination an avenue of redress and access to equal justice.

Let us reaffirm our national commitment to civil rights. I urge my colleagues to support this important bill without weakening amendments.

Mr. DELLUMS. Mr. Chairman, the passage of the Civil Rights Act of 1990 constitutes a moral imperative for the 101st Congress and this administration.

It is a national tragedy that, 26 years after the passage of the landmark Civil Rights Act of 1964, a series of recent Supreme Court decisions have undermined the national commitment to end discrimination in the workplace, public services, and public accommodations for all Americans.

This corrective legislation will both demonstrate a national commitment to make America a more inclusive society for all Americans, regardless of race, religion, gender, age, national origin—and for those who are physically disadvantaged, and it will vindicate the intent of this House in earlier legislative efforts.

Sadly, a small group of obstructionists, in and out of the Congress, have sought to undermine support for this legislation by misrepresenting it as a quota bill. That charge is uninformed at best, intellectually dishonest at worst. The legislation not only does not mandate quotas, it doesn't even authorize them or encourage them.

Finally, I would remind my colleagues that this legislation has the unqualified endorsement of the national civil rights community, and even the administration-appointed U.S. Commission on Civil Rights. And I note with gratitude that the American Jewish Committee, which has long opposed quotas of any kind, fully supports this legislation.

Mr. Chairman, the commitment to equality represented by this bill legislation is an absolute necessity if we as a society are to live up to the promises contained in our own Declaration of Independence and Bill of Rights. I urge the Congress to help make a better America for all Americans by voting "aye" on this legislation.

Mr. COYNE. Mr. Chairman, I rise in support of the 1990 Civil Rights Act, H.R. 4000. This legislation would correct several discrepancies and remedy some weaknesses that now exist in our Nation's civil rights law.

I would like to review briefly four of its major provisions.

First, it would clarify that an 1966 Federal civil rights statute, known as section 1981, prohibits racial discrimination in all aspects of an employment contract, not just the formation of a contract. This clarification would help protect against such practices as racial harassment on the job.

Second, H.R. 4000 would replace the burden of proof on the employer to show that an employment practice with a disparate impact on women or minorities is required by business necessity.

This point is a bit complicated, but it is central to this legislation. In the Wards Cove case last year, the Supreme Court put the burden of proof regarding business necessity on the plaintiff, the one claiming harm. In other words, the Court said that a plaintiff must prove that the employer's practice is not required by business necessity.

H.R. 4000 would take a very different approach, by establishing that the employer would have to prove that the practice is required by business necessity.

Third, the Civil Rights Act would establish a procedure to limit the ability of nonparties to challenge later a court decree that resolved an employment discrimination claim.

Fourth, it would clarify that the statute of limitations begins to run either when a discriminatory employment practice is implemented or when it has an adverse effect on the plaintiff, whichever is later.

Finally, there is another provision of H.R. 4000 that I believe especially deserves our close attention. This provision would, for the first time, permit the courts to award compensatory damages in cases of intentional discrimination under title VII and to award punitive damages in egregious situations.

Although this specific language is new, it is based on principles that are familiar territory in civil rights law. For some time, the victims of intentional job discrimination on the basis of race have been entitled to compensatory and punitive damages under section 1981—but that applies only to victims of race discrimination. H.R. 4000 would extend those remedies to people encountering job discrimination because of sex, religion, or national origin.

I would suggest that there are two persuasive arguments for this reform. First, our society should recognize that all job discrimination is abhorrent, whether it is on the basis of race, sex, religion, national origin, or some other factor unrelated to an individual's qualifications and performance.

The law should not punish some acts of discrimination and merely wink at others. It should not assume that certain kinds of discrimination are somehow more permissible than others. H.R. 4000 eliminates the current double standard by making available the same kinds of remedies to victims of discrimination in all of these categories.

Second, some have implied that it is too harsh on the business sector generally to punish severely those business people who intentionally discriminate. I disagree.

I am convinced that the great majority of business people are fair-minded individuals who would not deliberately discriminate. They are not really affected by this measure in any event.

But against potential discriminators, this measure could have a powerful deterrent effect. And in those instances when an employer is violating the law, H.R. 4000 would permit the victim to sue for the damages that she or he deserves.

Two generations ago, our country began a great national project—eliminating the scourge of race discrimination in the United States. This effort has produced heroes such as Rosa Parks, Martin Luther King, Bayard Rustin, Viola Liuzzo, John Lewis, Phil Randolph, and thousands of other extraordinary women and men whose names we will never know. Perhaps we will never realize their ideal fully, but it is still worth working and struggling for.

There are good arguments for individual provisions of H.R. 4000. But I think the strongest argument for it may be that it dignifies one of our best political traditions—the tradition of civil rights for which it was named—and it extends it to areas where it properly applies. Because of that, I commend this legislation to you and ask you to join me in supporting it.

Mr. DE LUGO. Mr. Chairman, I rise as an original cosponsor of the Civil Rights Act of 1990, in full support of this historic measure which once again places our Nation in the forefront of the quest for equality and justice for all our people.

In 1964 then-President Lyndon Baines Johnson stood up before the U.S. Congress and declared—with infinite determination—"We are gonna pass this Civil Rights Act if it takes all night!" Mr. Speaker, my House colleagues and I are here today with the same infinite determination to pass this Civil Rights Act of 1990. Why? Because this restores the full prohibitions against discrimination on the basis of race, color, religion, sex, or national origin as embodied in that historic 1964 document whose power has been so diminished in recent years by diluting Supreme Court decisions.

To those who oppose this proposed legislation I say the Civil Rights Act of 1990 will not generate quota systems across the land, as we have so often been told. As my colleagues are well aware, this act merely restores the standards used to determine discrimination as embodied in the Supreme Court's landmark 1971 Griggs decision; standards used by this Nation from 1971 to 1989 when another Supreme Court decision diluted this ruling.

Further employers were asked to come forward, during hearings on this very bill, to tell us if they had any evidence that quotas were being used to comply with these standards used under the Griggs ruling. Not one employer chose to do so. Clear proof that the quota argument was merely a red herring.

Opponents of the proposed Civil Rights Act of 1990 also balk at the expansion of the provision that allows compensatory and punitive damages to victims of intentional job discrimination based on race. But I ask my colleagues: Should not a person discriminated in the job marketplace for being of a different sex, of a different religion or a different national origin have just as much access to damages as remedies as those who are victimized because of being of a different race? Are not these victims of discrimination subject to just as much pain, suffering and economic deprivation when they are denied jobs?

And I ask my colleagues, who among you can oppose legislation that would assure that, after a private contract is drawn up, no evils, such as discriminatory working conditions or racial harrassment, would later ensue. Should an employer cry that business necessity demands discrimination, then this legislation would place the entire burden of proof of that necessity on the employer.

Mr. Speaker, this bill is supported by over 180 of the most well respected organizations in this country. Every one of these groups has a long history in the struggle for ensuring that we keep alive the equality of opportunity, and freedom from harassment and victimization, of

every living American. I, myself, and the people of the Virgin Islands also proudly stand up in full support of this bill.

Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 4000, the Civil Rights Act of 1990. Proponents would lead us to believe that the purpose of this legislation is to restore the status of employment discrimination law prior to recent Supreme Court decisions regarding civil rights. However, this legislation would not only reverse these Supreme Court decisions, it would dramatically change and expand employment discrimination laws which have been developed over the past 25 years. The Civil Rights Act of 1990 would reverse the current legal standard of innocent until proven guilty, mandate a quota system, and result in massive litigation with unlimited punitive and compensatory damage awards.

Under this bill, businesses which fail to meet certain racial, ethnic, and gender-based percentages in the workplace must prove that these disparities are not a result of discrimination. Under current law, claimants must identify the cause of the discrimination. Under this bill, the claimant need only demonstrate that certain racial hiring percentages do not exist and the burden of proof shift to the employer. In other words, the employer is guilty until proved innocent.

In an effort to avoid litigation, employees will adopt employment quotas as the only reasonable means of avoiding litigation. Employers will be forced to hire a certain percentage of employees based not on merit or qualification, but on race or sex. By imposing racial quotas rather than merit, we further weaken the American labor force's ability to compete in a fiercely competitive world.

H.R. 4000 will result in massive litigation. The availability of jury trials resulting in compensatory and punitive damages provides employees with an irresistible incentive to litigate. In my home State, California, wrongful discharge cases have skyrocketed. From 1980 through 1986 employees won over 70 percent of the cases tried before juries with an average award of $645,000; $1 million settlements are not uncommon. In reaction to these unreasonable settlements, the Supreme Court of California recently ruled that compensation and punitive damages should not be recovered in most wrongful discharge cases.

The Civil Rights Act of 1990 wrongfully assumes that all statistically unbalanced work forces are attributable to discrimination and curable by quotas. Rather than providing equal opportunity for employment this legislation will provide racial and gender-based entitlements for a select few. America needs a positive civil rights strategy which empowers all individuals and rewards them on merit not on race, or sex.

Mr. CRAIG. Mr. Chairman, today this House will consider H.R. 4000, the Civil Rights Act of 1990. This bill was introduced in response to several Supreme Court decisions that were interpreted as weakening the present law. I am a strong supporter of civil rights, but H.R. 4000, as reported out of committee, goes beyond good intentions.

Under the present law, a plaintiff or employee, in alleging discrimination, is required to identify the employment practice that is discriminatory. The employer or defendant can defend the employment practice by proving that it serves a "legitimate employment goal." H.R. 4000 would not only overturn this decision but it would dramatically change the standard of proof long accepted in title VII employment discrimination cases. It would not require the plaintiff to identify the specific practice that caused discrimination or demonstrate a link between the employment practices and the disparate impact. Instead, it would allow the plaintiff to make a case by using statistics that showed an imbalance in the work force.

The employer would be left to defend the employment practice and demonstrate that it is a business necessity, essential to extremely difficult and burdensome for an employer to provide. Therefore, in order to avoid potential expense litigation, employers would be pushed into implementing quota systems in hiring personnel. Quotas are not a positive resolution for employees or the employer.

In short, Mr. Chairman, while H.R. 4000 may have the best of intentions, it would have the worst of effects. Congress will, however, have the opportunity to vote on language for an equitable approach to civil rights. Congressmen MICHEL and LAFALCE will be offering an amendment that will provide reasonable relief to victims of discrimination without forcing employers to follow quotas in order to protect against open-ended suits. The substitute leaves the burden of proof with the employer and provides for equitable damages for intentional discrimination, of up to $100,000 as awarded by a judge.

I believe that all people should receive equal protection under the law. I will stick to that principle by voting for the Michel/LaFalce substitute, and I hope my colleagues will do the same.

Mr. ARMEY. Mr. Chairman, I rise in opposition to H.R. 4000, not because I oppose civil rights, but to the contrary, because I am a strong supporter of the rights of all Americans, black and white, male and female; and I have never believed that any one group should receive preferential treatment at the expense of others.

As an advocate of opportunity and choice in the marketplace, I have consistently supported legislation which would ensure that all members of society are free to pursue the career options of their choice. In my view, H.R. 4000 circumvents this objective by seeking employment guarantees rather than job opportunities.

I believe that recent Supreme Court decisions regarding affirmative action have been consistent with the original congressional intent. H.R. 4000 would end this consensus by potentially overturning 20 Supreme Court decisions writing rigid quotas into the law. H.R. 4000 assumes a government responsibility which I think is unrealistic. Sadly, in the effort to achieve this goal, the costs, regulations and other burdens which are imposed are deemed irrelevant. I disagree.

There are several provisions in this bill that I find particularly troublesome. The first issue is the changing standard for determining the burden of proof. Historically in this country Americans have been innocent until proven guilty. No longer. H.R. 4000 would overrule the Supreme Court's Ward's Cove decision by placing the burden of proof on employers thus requiring them to demonstrate that an employment practice which has a "disparate impact" (has a greater adverse effect on minorities, women, or members of certain religious groups) is justified.

To compound matters the standard needed to justify employment practices is "business necessity." This language has never before been used in statutory law nor by the Supreme Court. Many are concerned that it will require an employer to prove that the action is essential to the continued existence of the company. Such a standard is in my view unrealistically high. Together with placing the burden of proof on the employer, nearly 25 years of title VII precedent stressing equality of opportunity instead of equality of outcome is to be abandoned.

A second issue involves provisions within the bill which would reopen settled discrimination cases and prevent certain individuals from ever being able to have their day in court. H.R. 4000 contains a retroactive provision which would mean any cases already heard and settled prior to the enactment of H.R. 4000 could be reopened, including those decided by the Supreme Court, in light of any changes made in the law. At the same time H.R. 4000 would place severe limitations on nonminorities whose employment opportunities are adversely impacted by consent decrees from being able to challenge such action.

Another section which is particularly troublesome involves the damages provision of H.R. 4000. Traditionally, when individual employees have been harmed by an unlawful practice, Federal employment law has historically provided "make whole" remedies. These typically include reinstatement, back pay, and the restoration of lost benefits designed to restore the injured party to the status he or she would have enjoyed had the violation not occurred. H.R. 4000 tosses out this concept and would make unlimited damage claims broadly available in discrimination cases.

It allows juries to award both compensatory and punitive damages without any limitations whatsoever. Jury trials and unlimited damages have never been available before under title VII. It is inconceivable that such provisions, (including expert witness and attorney's fees, can have any effect other than serving as an irresistible inducement to plaintiffs and their lawyers to institute jury trials in a quest for large monetary awards.

A related factor is language which provides "that an unlawful employment practice is established whenever a discriminatory factor is a contributing factor for an employment practice." In other words even if an employer demonstrates that the same decision would have been made in the absence of the discriminatory factors, they would still face unlimited liability.

Mr. Chairman, the many features in H.R. 4000 would result in radical changes in title VII. In many instances it would make statistical disparities sufficient enough grounds to bring a title VII case, put the burden on the accused employer to prove its innocence and make employer defenses so narrow and difficult that companies would have no alternative

but to adopt employment quota systems to avoid liability. I cannot support such a measure.

My preference is to promote opportunity as opposed to guaranteeing results. Promoting opportunity for all Americans has a unifying effect. Those who demand guaranteed results either because of their race, sex, or sexual orientation are, by definition, divisive.

The CHAIRMAN. The Chair will advise the committee that all time previously assigned under general debate has been completed.

Pursuant to the rule, an amendment in the nature of a substitute printed in part 1 of House Report 101-656 will be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments now printed in the bill, and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) the term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employemnt, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in Griggs v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co., Inc. v. *Atonio* (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6 FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

(1) notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the perid that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act) as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provdied, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT—ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provi-

sion to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to subsections (b) and (c), apply in their entirety to the House of Representatives.

(b) EMPLOYMENT IN THE HOUSE.—

(1) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) IN GENERAL.—In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (b) shall apply exclusively.

(B) RESOLUTION.—The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House

SEC. 17. OTHER STATUTE OF LIMITATIONS; NOTICE OF RIGHT TO SUE.

(a) STATUTE OF LIMITATIONS.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF RIGHT TO SUE.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed by the Commission, the Commission shall so notify the person aggrieved and within 90 days after the giving of such notice a civil action may be brought against the respondent named in the charge by a person defined in section 11 (29 U.S.C. 630).".

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The CHAIRMAN. No amendments to said substitute are in order except the amendments printed in part 2 of House Report 101-656, which shall be considered in the order and manner specified in the report, shall be considered as read, and shall not be subject to amendment. The amendments numbered 1 in part 2 of House Report 101-656 may be considered en bloc and shall not be subject to a demand for a division of the question.

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

Mr. CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ANDREWS: In section 4 of the amendment—

(1) strike the close quotation marks and the period at the end; and

(2) add the following at the end:

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.".

In section 13 of the amendment, strike "Nothing" and insert the following:

"Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: *Provided, however,* That nothing".

The CHAIRMAN. Under this rule, the gentleman from Texas [Mr. ANDREWS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Does the gentleman from Pennsylvania [Mr. GOODLING] seek to be recognized in opposition?

Mr. GOODLING. Mr. Chairman, I do.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am introducing this amendment today with the gentleman from North Carolina so that it is perfectly clear that nothing in the Civil Rights Act of 1990 can be construed to require an employer to adopt quotas.

The word "quota" has concerned us all. No one here wants to institute quotas, and I would suggest that women and minorities shun them also. No one wants to be hired purely on the basis of their race, color, religion, sex, or national origin.

Many have argued that the Civil Rights Act of 1990 does more than reinstate Griggs versus Duke Power Co. That our bill goes further and will provide employers with no other choice than to institute quotas is simply not true. However, our amendment puts that issue to rest.

The language in the Civil Rights Act of 1990 is carefully drafted regarding cases of disparate impact. With our amendment, H.R. 4000 insures that the Wards Cove decision is overturned and that quotas will not be required.

The first section of our amendment clearly reaffirms that "the mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

The opponents of this bill have claimed that all a plaintiff has to do in disparate impact cases is to simply say my workplace contains fewer women or minorities than my community and therefore the employer is discriminating. This is not true. A plaintiff in a disparate impact case must prove many things before the burden of proof is switched to the employer.

Griggs clearly sets out that the plaintiff must show first that a specific employment practice or set of practices results in the disproportionate exclusion of women or minorities. Further, the plaintiff must show that the practice excludes qualified women or minorities based on a comparison with the relevant labor pool for that job. Only if the plaintiff can prove that the jobs at issue are unskilled, is the general population the relevant comparison.

Second, the plaintiff must show that there is a linkage between that practice and the elimination of a high proportion of qualified women or minorities for the jobs in question.

Third, the plaintiff must show that the exclusion or disparate impact of the employment practice affects disproportionately higher and significant numbers of women and minorities. Disparate impact cases take large numbers of people. The employer tends to be a large company or agency which hires many people routinely. In fact, the best known disparate impact cases are those regarding the exclusion of women, Hispanics, and Asians from police and firefighting forces across the country because of height and weight requirements.

No one can argue that Griggs, during the 18 years it set the rules for employment practices, caused employers to institute quotas. Our amendment ensures that one could construe that what we are doing today will cause employers to adopt quotas in the future.

Wards Cove has clearly had a detrimental effect on employees across the country. Today we move forward and ensure that the rules of the game regarding employment discrimination protect employees.

□ 2040

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, this probably can be called the found fig leaf amendment as reported from the Judiciary Committee. This language was in the bill, and somewhere between there and the Committee on Rules it got lost. I am very happy that the gentleman from Texas [Mr. ANDREWS] has found the language and is proposing to reinsert it back in the bill, but it really does not do anything. I think this shows the charade that has been going on by those who support the bill to try to hide the fact that the bill is a quota bill.

First of all, provision No. 1 in the first section of the bill does not do anything of substance in terms of the overturning of the Ward's Cove case.

Second, this bill, even with the amendment, will result in quotas, not by requiring them directly, but by inducing employers to adopt surreptitious quotas in order to avoid the cost and trouble of disparate impact lawsuits, which this bill makes it very, very difficult for employers to win.

Finally, the amendment by the gentleman from Texas [Mr. ANDREWS] does nothing to change section 6 of the bill, which would insulate many illegal quota arrangements from challenge.

Mr. Chairman, I would urge that this amendment be voted down. It does not do anything to solve the quota problem. It merely provides a fig leaf for some people to hide behind, and we ought not do these kinds of things on the floor.

Mr. ANDREWS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, our Nation is based on the premise that every person is important, that every person is worthy of dignity and respect. Our Constitution guarantees each individual equality of treatment under the law. It is essential that we support policies which ensure that this fundamental principle of American Government is not violated.

Mr. Chairman, recent Supreme Court decisions have overturned longstanding, well-understood, completely legitimate interpretations of civil rights law. As a result, protection against discrimination in employment has been significantly and unjustly restricted. It is necessary, Mr. Chairman, for Congress to overturn these decisions and reassert the original intent of our civil rights laws.

Mr. Chairman, the Civil Rights Act of 1990 is a good bill, a necessary bill. However, I have been concerned about fears expressed over the past few months that this bill could somehow require or cause quotas in hiring.

Mr. Chairman, I am completely opposed to quotas. Quotas do not represent equality of treatment under the law. They do not allow individuals to be judged according to their own merits and qualifications. They violate the very principles of the original Civil Rights Act of 1964, and they violate the basic premise of our Constitution. I just want to remind by colleagues that when Congress debated the original Civil Rights Act, our distinguished former colleage, Senator Hubert Humphrey, forcefully expressed his opposition to quotas and stated unequivocally that they were not and should never be required under law.

Mr. Chairman I did not cosponsor H.R. 4000 because I wanted to be able to assure myself, and my constituents, that this is not a quota bill. Although the bill's sponsors did not and do not intend for their bill to be a quota bill, I want to be absolutely certain that we do not inadvertently promote hiring quotas.

Therefore, I am pleased to have the opportunity to join my colleague from Texas in offering an amendment which will resolve this issue once and for all. Our amendment guarantees that the Civil Rights Act of 1990 does not require quotas and will not cause employers to implement quotas.

By approving this amendment, Congress will send a clear meassage to the courts and to the American public. We specifically state that statistics alone are not grounds for a disparate impact case. In addition, we make it clear that nothing in this bill should be interpreted as requiring employers to implement quotas.

Mr. Chairman, the original Griggs decision on disparate impact cases came out of my congressional district. In this case, the Supreme Court ruled that employment practices which appear neutral on their face but which operate to exclude qualified minorities are not allowed under title VII of the Civil Rights Act of 1964 unless the employer can show that these practices are justified by "business necessity."

The Griggs standard has been in effect since 1971. In the 19 years since this decision came down, employers have not resorted to quotas in order to comply with it. By codifying Griggs and rejecting the 1989 Wards Cove decision which overturned this important civil rights precedent, we are in no way requiring or advocating quotas. The amendment that Congressman Andrews and I are offering takes the bill one step further and clearly codifies the intent of the Civil Rights Act of 1964 as interpreted in Griggs.

Mr. Chairman, this bill is not about quotas, it is about preventing discrimination. It is not about quotas, it is about civil rights. It is not about quotas, it is about justice. I urge my colleagues to support our amendment, make the bill absolutely clear on this issue and then support final passage of the Civil Rights Act of 1990.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, it is important that Members realize exactly what truly is going

on here. The language that the gentleman from Texas [Mr. ANDREWS] is proposing as an amendment was in the bill when it was in the Committee on the Judiciary. It is in the Senate bill. It was taken out of the bill in order to be proposed here as an amendment so people could get up and say that this is no longer a quota bill. I can hardly believe the charade of it all.

But what I want to say is that it is a real tragedy that the party which says tonight they are the strong supporters of civil rights have been neither civil nor respectful of the rights of their own Members in their advocacy of their position on this bill. It saddens me to see this kind of charade called an amendment.

Mr. Chairman, it saddens me to have people from your side come and pull their names off of our speakers list because they have been intimidated. It saddens me to know that people have been threatened with being taken off of committees, being not allowed to be put on committees, even with their districts being redistricted, because they did not agree with the position of the leadership of the Democratic Party on this issue.

Mr. Chairman, that is not democratic, it is not civil, it is not respectful of rights. This amendment demonstrates the thinness of the veil. To have taken out of a bill language that was already in it, to offer it as an amendment, to somehow prove that you are against quotas, when a bill does not say and never did say quotas. We did not claim it said quotas.

Mr. Chairman, in my 4 minutes I will say why I think it is a quota bill. But truly the lack of civility and lack of respect for rights that has moved the LaFalce amendment from a winning amendment this morning to maybe or maybe not a winning amendment now saddens me and disrespects this House.

□ 2050

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the Andrews-Neal amendment.

Mr. Chairman, this amendment states clearly and unequivocally that "the mere existence of a statistical imbalance in the employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

Opponents of the bill have raised red herrings all along, saying that if this bill passes, statistics alone will be enough basis to find an employer guilty of discrimination. Mr. Chairman, that is not the case. It has never been the case. In order to make a prima facie case, the plaintiff must show that a specific employment practice, or group of employment practices, results in a disparate impact.

This amendment states in a straightforward way: "Statistics alone are not enough."

Further, the amendment makes it clear that this act "shall not be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin."

This bill reinstates case law that has been in effect since 1971 when Griggs versus Duke Power Co., was decided by the Supreme Court. From 1971 until the Supreme Court gutted that decision in Wards Cove Packing Co. versus Atonio in 1989, businesses were not forced to resort to the use of quotas. That was the situation for the period of almost two decades that Griggs was the law of the land. Restoring Griggs through passage of the Civil Rights Act of 1990 will not automatically force businesses to resort to quotas.

The opponents of the Civil Rights Act of 1990 have raised the spurious issues of statistics and quotas as scare tactics. This amendment sets the record straight.

I urge a yes vote on the amendment.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I support the amendment offered by the gentleman from Texas. I do not see how any Member could do otherwise. I wonder why we are doing it.

No one should seriously argue that quotas are explicitly encouraged or required in H.R. 4000. The problems with this bill are more insidious than that.

Disparate impact cases arise when there is unintentional discrimination. Cases where a high school diploma or drug free workplace have been required have gone to the Supreme Court because such policies have been found to have a disparate impact. Today, I wonder if a no smoking policy will be next. Almost any selection criteria for a job can result in a work force that does not exactly, proportionately represent the labor pool.

Some employers base hiring on a guestimate of an applicant's ability to be promoted to more difficult, more important tasks. Hirings and promotions often are based on subjective assessments of leadership ability or professional attitude. Will one of my colleagues say he or she does not hire and promote on such bases?

Kennedy-Hawkins however, lists examples of how employers should meet their burden of proof that an employment practice is not discriminatory: "Statistical reports, validation studies, expert testimony," etc.

I have not used statistical reports or validation studies in hiring hands for my farm or my congressional office. I wonder how many of my colleagues have?

I try to use what they call, where I come from, west Texas tractor seat common sense. Under Kennedy-Hawkins, I believe employment decisions based on tractor seat common sense probably will be an unlawful practice.

All the language in sections 3 and 4 of Kennedy-Hawkins are results-oriented, not causation-oriented. The "right" result, under Kennedy-Hawkins is avoidance of a statistical disparity. There is only one way to avoid a statistical disparity, and that is to hire and promote according to the statistics.

That sounds like quotas. Not, I admit, quotas as an express requirement, but as a safe harbor to which employers will feel forced to flee to avoid protracted and expensive lawsuits.

The floor amendment we consider today makes no real change in Kennedy-Hawkins. In fact, curiously enough, until yesterday, this language was in the bill.

Right here, in the July 24 substitute offered in the Judiciary Committee offered by the gentleman from California [Mr. EDWARDS], on page 6, lines 20-24, it says:

> Paragraph 4. The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

And, starting with line 25, on page 15:

> Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas * * *.

I look at the bottom of page 6 and 15 of the text made in order as original text for floor debate—and I find no such language.

Where did it go?

It's in the quotas amendment before us, today.

This language was taken out so that we could add it back on the floor as a supposedly improving amendment. This amendment is not being offered on the floor to make a substantive change—after all, the language was already in the bill, for a while—it's being offered to make everyone feel good by casting a symbolic vote against quotas.

Moreover, this amendment makes no difference. It restates the obvious, that the bill does not anywhere say quotas are required. But as has already been well argued today, Kennedy-Hawkins is drafted more subtly than that. The only way a well-meaning employer can make sure, under this bill, to avoid statistically incorrect and unlawful results, is to hire and promote according to the statistics.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HAWKINS], chairman

of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I rise in support of the amendment. I am surprised at those who accuse the bill of being a quota bill. Now presumably they are opposing a bill because of this amendment. Are they opposed to the amendment? Are they in favor of quotas? That is the issue.

We emphasize again, as was done in 1964, that discrimination is prohibited as to any individual. Any white person who is not hired for a less qualified black has a right to a suit. Qualifications are and should be the test, and that is all we are saying in this bill.

We are doing this because the Committee on Education and Labor did not have the language, and in combining the bills we wanted to make sure that this was the test. It shoud be qualifications.

Neither was the statistical language included in the bill, and this does include it.

So if Members want both the statistical language prohibition and a quota prohibition, this is the opportunity. Do not stand up and oppose this amendment if you are trying to do something against quotas.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I agree with the gentlewoman from Connecticut who has already spoken on this issue. It is an absolute puzzle to me. Both of these phrases, these paragraphs dealing with quotas, no quotas, and by the way it is the present law right now too, were in the bill that was taken from the Judiciary Committee. They came out of the Judiciary Committee.

Then we go through these kinds of charades so that we can convince people that we are doing something different, which I think has to be an insult to your side of the aisle if not to all of Congress. Is this the way you convince people that this is not a bill that creates quotas? That seems just absolutely inane to me that this body is doing something like this. Talk about having senseless things that we do that cost money to build up a record.

Do you know where quotas do come from? Where you have allegations, for instance, where statistical imbalances are deemed to be proof of disparate impact. Yes, where you have a lack of specificity, for instance, and you have lack of specificity in these bills. And when you have impossible burdens of proof, then of course you are going to have the person who happens to have the burden of proof, who cannot prove it, by the guy who loses. That is what you call quotas. That is what you have when people say I had to go into safe harbor. I do not have any other chance, I cannot win this case.

And I will tell you what else, when you have multimillion-dollar potential lawsuits, when you actually say, as we do in this bill for the very first time, look at section 5, the employer has no defense whatsoever to a simple discrimination claim.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE Mr. Chairman, I think everybody in this body should vote for this amendment. This amendment was, is in the substitute. This amendment was in, as I understand it, the bill that was reported out of committee, and it should be in any bill that becomes law. It is a good amendment.

I do not think it is adequate to meet the legitimate concerns, but it is certainly an improvement over the primary bill that is before us today, and everyone here should vote for it. I cannot see any grounds whatsoever for opposing it.

Mr. GOODLING. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, this amendment is an absolute see-through fig leaf. It is of absolutely no consequence to the bill, to the quota argument at all.

The bill says that you must adopt quotas in order to avoid multimillion dollar punitive and compensatory damages, and then the amendment by the gentleman from Texas would come back and say that if you do not mind the multimiliion dollar punitive damages, well then you do not have to adopt quotas. It is like the old master sergeant in the Army that ordered a recruit to do something he should not have been ordered to do, and he says, "Private, I can't make you do it, but I can make you wish you had."

Every employer in America will be required to adopt quotas by this bill whether we tell them that they have to or not, because they have to adopt the quotas to avoid the punitive and compensatory damages. It is in the bill.

2100

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the amendment has been offered to calm the fears which have developed because of the mislabeling of this bill as a "quota" bill. This amendment makes clear that a mere statistical difference between a work force and a community or within the work force itself does not create a civil rights violation.

This legislation has been the subject of intense scrutiny from all sides of the debate. From any angle of review, this bill can not be said to contain quotas nor can the language be construed as necessitating the adoption of quotas as a means of compliance.

The Civil Rights Act of 1990 is essential to the goal of equality for all Americans. The interests served by this bill are those of all Americans for fairness and justice.

So that there is no question as to the intent and effect of the Civil Rights Act of 1990, I urge you to support this amendment.

I do not support enforced quotas nor would I support a bill that would mandate quotas either specifically or as a practical result of provisions contained in legislation. I am certain that this bill is one I can support.

Mr. ANDREWS. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Chairman, I just want to reemphasize a point I made earlier this evening, and that is when you look at the Andrews amendment, read it and read it carefully, there is absolutely no way you can conclude this is a quota bill. This amendment is very important.

Mr. Chairman, I urge its adoption.

Mr. ANDREWS. Mr. Chairman, to close debate, I yield the balance of my time to the gentleman from California [Mr. EDWARDS], 1 minute.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I compliment the gentleman from North Carolina [Mr. NEAL] and the gentleman from Texas [Mr. ANDREWS] for offering this amendment. I think it is very important.

Mr. Chairman, I rise in support of the amendment. The language presented in this provision was included in two separate sections of the bill reported by the Judiciary Committee and was designed to assure that H.R. 4000 is not a quotas bill. This amendment is being offered to enable this House to reemphasize that this is not a quotas bill.

Twenty-six years after enacting title VII and 19 years after Griggs, there is no evidence that title VII compels employers or unions to use quotas. Why then are quota arguments made about this bill?

The argument goes like this: to avoid litigation, employers will hire or promote by the numbers because plaintiffs can use statistics to show imbalances and employers will never be able to justify the business necessity of their discriminatory employment practices because the bill's definition of business necessity is too stringent.

First of all, employers who hire or promote by the numbers may be subject to so-called reverse discrimination claims. But more importantly, the sponsors of H.R. 4000 took a number of steps to make clear that title VII and the changes made to it by this bill does not require employers to implement quotas. Clarifying language necessary to put the quotas argument to rest is reflected in the pending amendment. I urge you to support it.

A number of clarifications were made by the sponsors.

First, "no quotas" language was added to the House Judiciary and Senate-passed bills. This amendment reiterates that language. It says that nothing in H.R. 4000 should be construed "to require an employer to adopt hiring or promotion quotas."

Second, during the course of both Houses' consideration of the bill, the business necessity defense was modified several times, in response to concerns about quotas:

The standard set out in the introduced bill was "essential to effective job performance"; bills reported by Education and Labor, and the Civil Rights Subcommittee, modified the standard to "substantial and demonstrable relationship to effective job performance"; and bills reported by the Judiciary Committee and passd by the Senate required that the challenged employment practice(s) "bears a significant relationship to successful performance of the job." That is the language in the bill we are voting on today.

Finally, to ensure that courts do not treat "business necessity" as a new standard, language was added to the bill stating the Act's definition of business necessity restores the Griggs standard and overrules Wards Cove's treatment of the business necessity defense.

Concern has been raised that HR 4000 would result in plaintiffs winning law suits based on mere statistical comparisons. The gentleman's amendment includes language from the bill reported by the House Judiciary Committee which states that the "mere existence of a statistical imbalance in an employer's work force * * * is not alone sufficient to establish a prima facie case of disparate impact." This means that a plaintiff cannot win merely by showing that an employer had a smaller proportion of minority or female employees than existed in the general population.

Let me emphasize that HR 4000 does not change what Griggs requires the plaintiff to show. The plaintiff must compare the employer's work force with the relevant labor pool, and any disparity between this comparison must be statistically significant, that is, not explained away by chance.

As explained in the House Judiciary Committee report, statistics may still be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But these statistics must meet the requirement of law. Mere statistical imbalance without more will not suffice to establish a prima facie case. The relevant comparison is between the qualified labor pool and those actually selected. Simple reference to the population at large will generally be insufficient.

Let me stress that Griggs has encouraged employers to review policies that may adversely affect equal employment opportunity (an important governmental objective) and to take actions. The law does not compel an employer to adopt "quotas" and it does not prohibit the employer from engaging in affirmative action which does not unnecessarily trammel the right of others. In fact, the law allows an employer or union to enter voluntary agreements providing for race-conscious remedial action. It authorizes courts to enter whatever relief deemed appropriate to remedy past discrimination, including race-conscious relief, as well as relief that may benefit individuals who are not identified victims of unlawful discrimination.

Mr. Chairman, ironically, the quota argument was raised in 1964 when title VII was being debated. As a result, section 703(j) was added to title VII saying, "[title VII] does not require preferential treatment * * * on account of imbalance * * *" between an employer's work force and the general population. This means an employer is not required to grant preferential treatment to correct any perceived racial gender or ethnic imbalance in his/her work force. I support this amendment giving the House an opportunity to reaffirm what the sponsors of the legislation have always said, H.R. 4000 does not require quotas and employers are not guilty of discrimination merely because of a statistical imbalance in their work force. I urge my colleagues to vote yes on this amendment.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. ANDREWS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 24, not voting 11, as follows:

[Roll No. 306]

AYES—397

Ackerman	Andrews	Applegate
Alexander	Annunzio	Aspin
Anderson	Anthony	Atkins
AuCoin	Feighan	Lloyd
Ballenger	Fields	Long
Barnard	Fish	Lowey (NY)
Bartlett	Flake	Lukens, Donald
Barton	Flippo	Machtley
Bateman	Foglietta	Manton
Bates	Frank	Markey
Beilenson	Frenzel	Marlenee
Bennett	Frost	Martin (IL)
Bentley	Gallegly	Martin (NY)
Bereuter	Gallo	Martinez
Berman	Gaydos	Matsui
Bevill	Gejdenson	Mavroules
Bilbray	Gekas	Mazzoli
Bliley	Gephardt	McCandless
Boehlert	Geren	McCloskey
Boggs	Gibbons	McCollum
Bonior	Gillmor	McCrery
Borski	Gilman	McCurdy
Bosco	Glickman	McDermott
Boucher	Gonzalez	McEwen
Boxer	Gordon	McGrath
Brennan	Goss	McHugh
Brooks	Grandy	McMillan (NC)
Broomfield	Grant	McMillen (MD)
Browder	Gray	McNulty
Brown (CA)	Green	Meyers
Brown (CO)	Guarini	Mfume
Bruce	Hall (OH)	Miller (CA)
Bryant	Hamilton	Miller (OH)
Buechner	Hancock	Miller (WA)
Bunning	Hansen	Mineta
Bustamante	Harris	Moakley
Byron	Hastert	Molinari
Campbell (CA)	Hatcher	Mollohan
Campbell (CO)	Hawkins	Montgomery
Cardin	Hayes (IL)	Moody
Carper	Hayes (LA)	Moorhead
Carr	Hefley	Morella
Chandler	Hefner	Morrison (CT)
Chapman	Henry	Morrison (WA)
Clarke	Herger	Mrazek
Clay	Hertel	Murphy
Clement	Hiler	Murtha
Coble	Hoagland	Nagle
Coleman (MO)	Hochbrueckner	Natcher
Coleman (TX)	Hopkins	Neal (MA)
Collins	Horton	Neal (NC)
Combest	Houghton	Nielson
Condit	Hoyer	Nowak
Conte	Hubbard	Oakar
Conyers	Huckaby	Oberstar
Cooper	Hughes	Obey
Costello	Hunter	Olin
Coughlin	Hutto	Ortiz
Courter	Hyde	Owens (NY)
Cox	Inhofe	Owens (UT)
Coyne	Ireland	Oxley
Craig	Jacobs	Packard
Crockett	James	Pallone
Dannemeyer	Jenkins	Panetta
Darden	Johnson (CT)	Parker
Davis	Johnson (SD)	Parris
de la Garza	Johnston	Patterson
DeFazio	Jones (GA)	Paxon
Dellums	Jones (NC)	Payne (NJ)
Derrick	Jontz	Payne (VA)
DeWine	Kanjorski	Pease
Dickinson	Kaptur	Pelosi
Dicks	Kasich	Penny
Dingell	Kastenmeier	Perkins
Dixon	Kennedy	Petri
Donnelly	Kennelly	Pickett
Dorgan (ND)	Kildee	Pickle
Dornan (CA)	Kleczka	Porter
Douglas	Kolbe	Poshard
Downey	Kolter	Price
Dreier	Kostmayer	Pursell
Duncan	Kyl	Quillen
Durbin	LaFalce	Rahall
Dwyer	Lagomarsino	Rangel
Dymally	Lancaster	Ravenel
Dyson	Lantos	Ray
Early	Laughlin	Regula
Eckart	Leach (IA)	Rhodes
Edwards (CA)	Lehman (CA)	Richardson
Edwards (OK)	Lehman (FL)	Ridge
Emerson	Lent	Rinaldo
Engel	Levin (MI)	Ritter
English	Levine (CA)	Roberts
Erdreich	Lewis (CA)	Roe
Espy	Lewis (FL)	Rogers
Evans	Lewis (GA)	Rohrabacher
Fascell	Lightfoot	Ros-Lehtinen
Fawell	Lipinski	Rose
Fazio	Livingston	Rostenkowski

Roth	Smith (NE)	Torricelli
Roukema	Smith (NJ)	Towns
Rowland (CT)	Smith (TX)	Traficant
Rowland (GA)	Smith (VT)	Traxler
Roybal	Smith, Denny (OR)	Udall
Russo	Smith, Robert (NH)	Unsoeld
Sabo	Smith, Robert (OR)	Upton
Saiki	Snowe	Valentine
Sangmeister	Solarz	Vento
Sarpalius	Solomon	Visclosky
Sawyer	Spence	Volkmer
Saxton	Spratt	Vucanovich
Schaefer	Staggers	Walgren
Scheuer	Stallings	Walsh
Schiff	Stark	Washington
Schneider	Stearns	Watkins
Schroeder	Stenholm	Waxman
Schuette	Stokes	Weiss
Schumer	Studds	Weldon
Serrano	Stump	Wheat
Sharp	Sundquist	Whittaker
Shaw	Swift	Whitten
Shays	Synar	Williams
Shumway	Tallon	Wilson
Shuster	Tanner	Wise
Sikorski	Tauke	Wolf
Sisisky	Tauzin	Wolpe
Skaggs	Taylor	Wyden
Skeen	Thomas (CA)	Wylie
Skelton	Thomas (GA)	Yates
Slattery	Thomas (WY)	Yatron
Slaughter (NY)	Torres	Young (AK)
Slaughter (VA)		Young (FL)
Smith (FL)		
Smith (IA)		

NOES—24

Archer	Gingrich	Michel
Armey	Goodling	Myers
Baker	Gradison	Savage
Burton	Gunderson	Schulze
Callahan	Hammerschmidt	Sensenbrenner
Clinger	Holloway	Stangeland
Crane	Lowery (CA)	Walker
DeLay	Madigan	Weber

NOT VOTING—11

Bilirakis	Leath (TX)	Pashayan
Ford (MI)	Luken, Thomas	Robinson
Ford (TN)	McDade	Vander Jagt
Hall (TX)	Nelson	

□ 2122

Messrs. GRANDY, SKEEN, SHUMWAY, ROBERTS, WHITTAKER, KYL, SHUSTER, DENNY SMITH, LIGHTFOOT, LENT, ROBERT F. (BOB) SMITH, and NAGLE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASHAYAN. Mr. Speaker, I ask unanimous consent to say that I was on the way and did not reach the Chamber in time to cast a vote on rollcall No. 306.

Had I been here, I would have cast the vote, "aye."

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: In section 8 of the amendment—

(1) insert "(a) DAMAGES.—" before "Section 706(g)", and

(2) by adding at the end the following:

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following

"(2) If the respondent has fewer than 100 employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, then the amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against the respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas [Mr. BROOKS].

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, it is my intent in rising to indicate that, after the next vote on the pending amendment, that it is the intent of us on this side to move to rise.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. What happens then?

I mean do we do this tomorrow?

Mr. HAWKINS. Tomorrow morning it is the intent to go to the amendment of the gentleman from Illinois [Mr. MICHEL] as the first order of business at 10 a.m.

Mr. GUNDERSON. So, we are going to, in one day, do the major debate on the major issue on civil rights, and we are going to do campaign reform, all in one day, while we pass a debt ceiling and we try to get out of here, in addition to three conference reports?

Mr. HAWKINS. Mr. Chairman, I say to the gentleman from Wisconsin, It's going to be the same time regardless if we do it tonight up until midnight or tomorrow morning. We will have the same time under the rule, so we are not shortening or lengthening the debate.

Mr. GUNDERSON. Mr. Chairman, I understand what the gentleman from California [Mr. HAWKINS] is saying.

Mr. Chairman, the point I am trying to make is that all of a sudden we are going to take the two most important issues, or two of the most important issues in this session, civil rights and campaign reform. We are going to try to do both of those in one day. We are going to add to that a series of conference reports, including the oilspills conference report, and we are going to try to raise the debt ceiling all in one day.

Mr. HAWKINS. I repeat, whether you do it all in 1 day or in 2 days, it's going to be the same time. It's a matter of accommodating Members who have expressed a desire not to work late tonight.

Mr. Chairman, I say to the gentleman from Wisconsin [Mr. GUNDERSON], If your leadership is opposed to it, and I thought they were agreeable to it, if they're opposed to it, then let's not waste the time now. Let's proceed.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I say we are opposed to it, so let us proceed.

Mr. BROOKS. Mr. Chairman, from many quarters we have heard that section 8 of the Civil Rights Act of 1990, the section that authorizes compensatory and punitive damages for victims of discrimination under title VII of the Civil Rights Act of 1964, is unacceptable. We are told this provision will force employers to take extravagant actions—such as the implementation of a quota system—to avoid the possibility of a suit, and to pay out monies as a matter of course, even to settle frivolous suits, in order to avoid being subjected to the uncertainties and potential outrageous punitive damage awards that might result from a jury trial.

Mr. Chairman, the amendment that I am offering along with our esteemed colleague, the Chairman of the Committee on Education and Labor and the gentleman from South Carolina [Mr. TALLON] seek to lay these unfounded fears to rest. Our amendment places a cap on punitive damages for all businesses with fewer than 100 employees. With the passage of our amendment, 97.7 percent of all businesses in this country will know that they will never face punitive damage awards exceeding $150,000, or an amount equal to the sum of compensatory damages and back pay, to victims of employment discrimination.

Bear in mind that the damages provision in the bill we are working on today, the Civil Rights Act of 1990, authorizes monetary damages only where discrimination is intentional. In addition, punitive damages are authorized only where that intentional discrimination is malicious and is done with callous and reckless disregard for the civil rights of any person. Businesses will be subject to punitive damages in the first place only if they or their officers and employees are malicious, callous or reckless—mean and vicious—with regard to the rights of all persons to enjoy fair and equal opportunities in the workplace.

As a matter of fact, compensatory and punitive damages currently are allowed under section 1981 of title 42, United States Code, which had its origin in a post-Civil War statute designed to protect the rights of blacks. As we consider whether to expand the right to collect damages from blacks to women and other minorities in H.R. 4000, it would be instructive to look at the past experience of damages awards under section 1981 of title 42.

A study conducted by Shea and Gardner, a respected law firm, of cases brought under section 1981 found that monetary damage awards were more than $200,000 in only three decisions reported throughout the country during the past 10 years. In over 85 percent of the reported cases, no monetary damages were awarded at all, and in the cases where there were monetary damages, the average award was about $40,000.

Mr. Chairman, businesses in this country have made considerable progress in opening the work place to people of all walks of life. Attitudes are hard to change, but with the proper incentives, people can and do adjust their attitudes with new requirements in mind. But, the battle against discrimination is not yet over. The damages provision in the Civil Rights Act of 1990 adds appropriate incentives for businesses and individuals to comply with the law.

The cap on punitive damages clearly sets the upper limit for the businesses that run afoul of the law and are found to have violated the civil rights of others.

I urge all Members to support our amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment does not solve the problem of huge litigation costs as the proponents would seem to indicate. It does not eliminate jury trials. It does not eliminate the huge fees that are paid to lawyers in order to take a case to the jury.

Furthermore, it completely blows a hole in the proponents' arguments in favor of this bill that we should not treat sex and religious discrimination differently than racial discrimination, because it does put a cap, and a weak cap at that, on the amount of punitive damages that are awarded.

Also, the Members should be very clear that this does not put a cap on compensatory damages, which includes pain and suffering, emotional distress and back pay.

What it does do is it says that the cap is $150,000 on punitive damages, or the amount of compensatory damages, whichever is greater. That means that if the jury should award just a dollar in compensatory damages for each minute of pain and suffering and emotional distress, that would be $1,440 a day, $43,200 a month, and $518,400 a year, which could be matched by punitive damages under the amendment of the gentleman from Texas.

This is not an effective cap on punitive damages. It certainly does not reduce the leverage that plaintiffs' lawyers can have to force suits to settlement even when the suits do not have merit.

Mr. Chairman, I urge opposition to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2½ minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Chairman, I thank the distinguished gentleman for yielding this time to me.

Mr. Chairman, policies that promote and protect full employment are important to all Americans. However, we must balance the need between the right to challenge unfair and discriminatory employment practices, against the need to prevent the encouragement of costly and adversarial litigation.

This amendment will provide for that balance, and complement the Civil Rights Act and existing civil rights law.

This amendment simply states that all people have a right to collect compensatory damages and/or equitable relief, while protecting small businesses from excessive judgements.

This amendment provides a cap of $150,000 for employers with less than 100 employees, or the amount equal to the sum of compensatory damages and equitable relief, whichever is greater. Of our country's businesses, 97 percent will be covered by this cap.

While this amendment will provide relief for people who have been wronged and who have been willfully discriminated against, it will not place an excessive burden on our small businesses because it provides a cap. A cap which will stifle frivolous cases and limit fiscal damage.

Our task is not to fix the inequities of the past, but to fix a course for the future. This bill does that.

What are some in this body afraid of in 1990? History has taught us that the only way to conquer fear is to keep doing the things we fear to do.

We learn how to work together, not by sacrificing principles, but by learning to understand one another.

So if we would just treat every person as we would want to be treated, there would be no question that we would support the committee bill.

And in years to come this 1990 Civil Rights Act will be heralded as a great success—a progressive realization of a worthwhile goal.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GRANDY).

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, although this amendment is ostensibly designed to protect small businesses from large jury awards, the amendment offers no such protection. This amendment would limit punitive damages to $150,000, or the amount of compensatory damages and back pay and other equitable monetary relief awarded to the plaintiff, whichever is greater. Therein lies the flaw of this amendment, the amount of punitive damages is limited by the completely limitless amount of compensatory and other damages. There simply is no monetary limit on the amount that a jury may award a plaintiff for injuries such as pain and suffering or loss of consortium. Consequently, there is no limit on the amount of punitive damages that a plaintiff may be awarded. This is not a cap. This is an ante.

Just to cite one example of the kind of money that we are talking about when we say that punitive damages are limited by the amount of compensatory damages, back pay, and other equitable monetary relief, we can look at the Price Waterhouse case with which we are now somewhat familiar. The plaintiff, who we very often forget, Mr. Chairman, prevailed in this case, was found to have been denied a partnership on the basis of her sex. She was awarded $371,175 in back pay and an ownership share in the Price Waterhouse accounting firm and attorney's fees totaling $422,460. This award is totally independent of any compensatory damages which are not available under current law. To say that punitive damages are limited by the sum of $371,000, plus the value of a partnership share in a major national accounting firm, plus under H.R. 4000 the amount of any compensatory damages, seems to me to be no real limit at all.

□ 2140

Do not support this amendment. This is, as I said earlier, an ante and not a cap.

The CHAIRMAN. The Chair will announce that the gentleman from Texas [Mr. BROOKS], who reserves the right to close debate, has 2½ minutes remaining. The gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconin [Mr. GUNDERSON].

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yeild to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I wanted to ask the gentleman from Texas a question, and the

question was about his statement about the limitation of the amount of damages that would be allowable under his amendment. I just wanted to point out that he misstated it by pointing out that there was a $150,000 cap. That is not true, because there is also the amount of the compensatory damages which may be greater. I would make the point that that is precisely what is wrong with this bill. This bill is not about civil rights, because the Hawkins bill and the LaFalce bill both deal with civil rights. The problem with H.R. 4000 is it is a lawyers' bill. It is a way for lawyers to get rich. It is not civil rights.

If you want civil rights, you pass the LaFalce amendment. If you want ways to get more money into the pockets of the lawyers, you pass the Brooks amendment.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's comments.

The point I want to share with you all is what you are doing under this amendment is you are establishing three different sets of civil rights enforcement in this country under title VII. Right now we say any business with 14 or less employees is exempt from title VII. This amendment comes up with a new category. It says anybody from 15 up to 100 is going to have B set of remedies. We now have created a new civil rights enforcement.

Companies from 15 to 100 employees, they have the damages prescribed in this amendment, but anybody over 100, well, they are going to have the book thrown at them, so think of it, you are for civil rights, but you have now established three different categories of enforcement.

Second, I have got to tell you that this is the you-can't-have-it-both-ways amendment. You cannot come down to the well of the House in general debate and suggest that the beauty of Kennedy-Hawkins is it treats sexual harassment and racial harassment under 1981 the same, and then vote for this amendment which puts a cap of $150,000 on because now you have taken sexual harassment and said, that is right, we are going to put a cap on sexual harassment or sexual discrimination, but we are going to maintain unlimited for 1981 in racial, and you cannot have it both ways, folks. You have to choose in this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3½ minutes, the remainder of my time, but I will not take it all.

Mr. Chairman, I would like to emphasize the point just made by my colleague, the gentleman from Wisconsin [Mr. GUNDERSON].

Throughout the course of this debate the proponents of H.R. 4000 have repeatedly said that we should not treat sexual harassment differently from racial harassment suits under 1981, and we should have the same remedy scheme for both.

This amendment goes back on those statements, and anybody who claimed to support H.R. 4000 on the basis of treatng sexual and racial harassment equally should oppose this amendment. I urge a no vote.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman I rise in opposition to this amendment to cap punitive damages at $150,000, even though it is offered by my good friends, my chairman, the gentleman from Texas [Mr. BROOKS], my partner on this bill, the gentleman from California [Mr. HAWKINS], and the gentleman from South Carolina [Mr. TALLON].

Women and religious minorities should not be subject to second-class treatment or second-class remedies. They should have the same remedies that racial minorities have under the Civil Rights Act of 1866 (42 U.S.C. § 1981). The administration supports keeping full compensatory and punitive damages for racial minorities—why not for women and religious minorities? Why should sexual harassment be treated differently from racial harassment.

I am very puzzled about the notion of capping damages. Two years ago, in the fair housing amendments, we lifted the cap on punitive damages that was contained in the original Fair Housing Act. This cap was rightfully seen as a severe impediment in enforcing that law, and Congress correctly removed the cap.

Mr. Chairman, my conservative friends, people who I almost never agree with, support damages for victims of intentional discrimination. People like former Attorney General Edwin Meese, former Assistant Attorney General Wm. Bradford Reynolds, Judge Clarence Thomas, former chairman of EEOC and Clint Bollick, writing for the Heritage Foundation.

During his tenure as head of the Civil Rights Division, Mr. Reynolds and I had many sharp disagreements. But hear Mr. Reynolds on damages: "The Administration is saying we can tolerate jury trials and damages for racial harassment but not for harassment of women and religious minorities. I have a hard time following the rationale of that." (Congressional Quarterly, 4/21/90).

We are not providing damages in a vacuum. Both compensatory and punitive damages have been available to racial minorities under 42 U.S.C. § 1981 for a number of years. There have been very few cases of damages under section 1981. The law firm of Shea and Gardner studied this issue and found:

Over the last 10 years, there were 576 reported section 1981 cases. In only 68 of those cases were compensatory or punitive damages awarded.

In 42 of the cases where it is possible to determine the exact amount of the damages award, the combined compensatory and punitive award per case was $50,000 or less.

In four cases, plaintiffs received less than $500.

Only three cases where plaintiff was ultimately awarded more than $200,000 combined compensatory and punitive damages.

[See 136 Cong. Rec. 19470 (Daily ed. July 25, 1990)]

Damages in employment discrimination complaints have not been a lawyer's bonanza, nor have they brought unwarranted riches on victims of employment discrimination. We should learn by this experience and not put an unnecessary and unwarranted cap on damages. Let us not make women and religious minorities second-class citizens.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I would like to ask the gentleman a question. We have heard all of this talk. You do not pay anything unless you are guilty, do you?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. HAWKINS] to close the debate.

Mr. HAWKINS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this is a very difficult vote. It is a difficult vote for me personally because I do not believe in caps. Now, there are caps under both bills.

The one under the so-called substitute is a conditional cap which is no cap at all, because it provides that in those cases where awards may be given other awards may be given that it would not apply. Title VII does give other awards, back pay, for example.

Under this proposal, while I disagree in principle with the cap, I believe that in the transitional period it is desirable.

I think we have always recognized in civil rights legislation that there is a certain period of time in which the public must be educated, and we cannot move ahead of our constituency. For that reason, I intend to support a cap on damages in this instance.

Those who have pleaded for small business now expose themselves to the fact that they are trying to protect big business. It was not small business, it was big business. Now, this is an exemption for small business. The only

one who will be affected actually are the AT&T, the General Motors, and the others who have over a period of time paid rather large damage suits out, and so this is a clear-cut protection on a temporary basis at least for those, and we can revisit this at any time for small businesses.

I am surprised at those who have asked us to insert damages into H.R. 4000 are now opposing it. The only reason I can anticipate that the effect of that is that they do not want H.R. 4000 to have a damage cap in order that they can then say we do not want to support H.R. 4000, and we want the substitute.

Again, you just cannot have it both ways. But I would remind the Members that this is the only opportunity we will have to address this issue. The Senate bill does not have such a provision, and if you at least want to address the issue to keep it alive, to do with it whatever you please in conference or otherwise, this is the only time we are going to have an opportunity to vote on it, and if you vote against this, it simply means that you are voting against the damages, the great damages that you have been parading before us as a means of defeating H.R. 4000.

Mr. Chairman, I suggest we support the amendment.

The CHAIRMAN. All time reserved for debate for this amendment has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and on a division (demanded by Mr. SENSENBRENNER), there were—ayes 94, noes 61.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 134, not voting 9, as follows:

[Roll No. 307]

AYES—289

Ackerman	Brooks	Davis
Alexander	Browder	de la Garza
Anderson	Brown (CA)	DeFazio
Andrews	Brown (CO)	Derrick
Annunzio	Bruce	Dicks
Anthony	Bustamante	Dingell
Applegate	Byron	Dixon
Aspin	Campbell (CO)	Donnelly
Atkins	Cardin	Dorgan (ND)
Barnard	Carper	Downey
Barton	Carr	Duncan
Bates	Chapman	Dwyer
Beilenson	Clarke	Dymally
Bennett	Clay	Dyson
Bentley	Clement	Early
Bereuter	Coble	Eckart
Berman	Coleman (MO)	Engel
Bevill	Collins	English
Bilbray	Condit	Erdreich
Bliley	Conte	Espy
Boehlert	Conyers	Evans
Boggs	Cooper	Fascell
Borski	Courter	Fazio
Bosco	Coyne	Feighan
Boucher	Crockett	Fields
Brennan	Darden	Fish
Flake	Martin (NY)	Saiki
Flippo	Martinez	Sangmeister
Frost	Matsui	Sarpalius
Gallo	Mavroules	Sawyer
Gaydos	Mazzoli	Saxton
Gephardt	McCandless	Schaefer
Geren	McCloskey	Schiff
Gibbons	McCurdy	Schneider
Gillmor	McDermott	Schuette
Gilman	McEwen	Schulze
Glickman	McGrath	Schumer
Gonzalez	McHugh	Serrano
Gordon	McMillan (NC)	Sharp
Grant	McMillen (MD)	Shays
Gray	McNulty	Sisisky
Green	Meyers	Skaggs
Guarini	Miller (OH)	Skeen
Hall (OH)	Miller (WA)	Skelton
Hamilton	Moakley	Slattery
Harris	Mollohan	Slaughter (NY)
Hatcher	Montgomery	Smith (FL)
Hawkins	Moody	Smith (IA)
Hayes (LA)	Moorhead	Smith (NE)
Hefner	Mrazek	Smith (NJ)
Henry	Murphy	Smith (TX)
Herger	Murtha	Smith (VT)
Hertel	Natcher	Snowe
Hoagland	Neal (MA)	Solomon
Hochbrueckner	Neal (NC)	Spence
Hopkins	Nowak	Spratt
Horton	Oberstar	Staggers
Houghton	Obey	Stallings
Hoyer	Olin	Stearns
Hubbard	Ortiz	Stenholm
Huckaby	Owens (NY)	Stokes
Hughes	Owens (UT)	Studds
Hunter	Packard	Swift
Hutto	Panetta	Synar
Jacobs	Parker	Tallon
James	Pashayan	Tanner
Jenkins	Patterson	Tauke
Johnson (CT)	Payne (VA)	Tauzin
Johnson (SD)	Pease	Taylor
Johnston	Penny	Thomas (GA)
Jones (GA)	Petri	Torres
Jones (NC)	Pickett	Torricelli
Jontz	Pickle	Towns
Kanjorski	Poshard	Traficant
Kaptur	Price	Traxler
Kildee	Pursell	Udall
Kleczka	Quillen	Unsoeld
Kolter	Rahall	Valentine
LaFalce	Rangel	Vander Jagt
Lagomarsino	Ravenel	Vento
Lancaster	Ray	Visclosky
Lantos	Regula	Volkmer
Laughlin	Richardson	Vucanovich
Leach (IA)	Ridge	Walgren
Lehman (CA)	Rinaldo	Walsh
Lehman (FL)	Ritter	Watkins
Lent	Roberts	Weldon
Levin (MI)	Roe	Wheat
Lewis (CA)	Ros-Lehtinen	Whittaker
Lightfoot	Rose	Whitten
Lipinski	Rostenkowski	Wilson
Lloyd	Roukema	Wise
Long	Rowland (CT)	Wyden
Machtley	Rowland (GA)	Yates
Manton	Roybal	Yatron
Markey	Russo	
Martin (IL)	Sabo	

NOES—134

Archer	Cox	Gingrich
Armey	Craig	Goodling
AuCoin	Crane	Goss
Baker	Dannemeyer	Gradison
Ballenger	DeLay	Grandy
Bartlett	Dellums	Gunderson
Bateman	DeWine	Hammerschmidt
Bonior	Dickinson	Hancock
Boxer	Dornan (CA)	Hansen
Broomfield	Douglas	Hastert
Bryant	Dreier	Hayes (IL)
Buechner	Durbin	Hefley
Bunning	Edwards (CA)	Hiler
Burton	Edwards (OK)	Holloway
Callahan	Emerson	Hyde
Campbell (CA)	Fawell	Inhofe
Chandler	Foglietta	Ireland
Clinger	Frank	Kasich
Coleman (TX)	Frenzel	Kastenmeier
Combest	Gallegly	Kennedy
Costello	Gejdenson	Kennelly
Coughlin	Gekas	Kolbe
Kostmayer	Oakar	Smith, Robert (NH)
Kyl	Oxley	Smith, Robert (OR)
Levine (CA)	Pallone	Solarz
Lewis (FL)	Parris	Stangeland
Lewis (GA)	Paxon	Stark
Livingston	Payne (NJ)	Stump
Lowery (CA)	Pelosi	Sundquist
Lowey (NY)	Perkins	Thomas (CA)
Lukens, Donald	Porter	Thomas (WY)
Madigan	Rhodes	Upton
Marlenee	Rogers	Walker
McCollum	Rohrabacher	Washington
McCrery	Roth	Waxman
Mfume	Savage	Weber
Michel	Scheuer	Weiss
Miller (CA)	Schroeder	Williams
Mineta	Sensenbrenner	Wolf
Molinari	Shaw	Wolpe
Morella	Shumway	Wylie
Morrison (CT)	Shuster	Young (AK)
Morrison (WA)	Sikorski	Young (FL)
Myers	Slaughter (VA)	
Nagle	Smith, Denny (OR)	
Nielson		

NOT VOTING—9

Bilirakis	Hall (TX)	McDade
Ford (MI)	Leath (TX)	Nelson
Ford (TN)	Luken, Thomas	Robinson

□ 1211

The Clerk announced the following pairs:

On this vote:

Mr. Ford of Michigan for, with Mr. Robinson against.

Mr. BONIOR, Mrs. LOWEY of New York, and Messrs. LEWIS of Georgia, WOLPE, HAYES of Illinois, WAXMAN, WEISS, PORTER, DURBIN, COLEMAN of Texas, and KASTENMEIER, Ms. OAKAR, and Messrs. SIKORSKI, BRYANT, PALLONE, and PAYNE of New Jersey changed their vote from "aye" to "no."

Mr. SPENCE. Mrs. SAIKI, Mrs. VUCANOVICH, and Mr. SKEEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2210

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NELSON of Flordia. Mr. Speaker, had I been present, I would have voted "yea" on rollcall 300, 302, 303, 304, 305, 306, and 307. I would have voted "nay" on rollcall 301.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2952. An act to amend the Energy Policy and Conservation Act to extend the authority for title I and II.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1465, OIL POLLUTION PREVENTION, RESPONSE, LIABILITY AND COMPENSATION ACT OF 1989, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-658) on the resolution (H. Res. 452) waiving certain points of order against the conference report on the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-659) on the resolution (H. Res. 453) providing for the consideration of the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representative elections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR REPRESENTATIVE MICHEL OF ILLINOIS TO SUBMIT TO THE CONGRESSIONAL RECORD AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE SUBSTITUTE TO H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. MOAKLEY. Mr. Speaker, consistent with the rule just filed, I ask unanimous consent that the distinguished minority leader, Representative MICHEL of Illinois, have until midnight tonight to submit to the CONGRESSIONAL RECORD of August 2, 1990, an amendment in the nature of a substitute to the substitute to H.R. 5400 made in order as original text under the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5432) to extend the expiration date of the Defense Production Act of 1950.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentlewoman from Ohio?

Mr. SHUMWAY. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentlewoman from Ohio for an explanation.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Defense Production Act of 1950 expires August 10, 1990. Because we are going into recess shortly, it is obvious we cannot complete consideration of H.R. 486 before the expiration of the act. Failure to extend the act can jeopardize our ability to prepare for a national security emergency. I would note that the Defense Production Act is the cornerstone of the Nation's defense resource and mobilization structure. It is the key authority for emergency preparedness and provides the statutory basis for the readiness of the Nation's industrial resources. There have been several occasions when the authority contained in the act have been used to ensure the availability of essential defense production. Continuation of these authorities is essential to our industrial readiness and our national defense.

The bill before the House today will extend the Defense Production Act until September 30, 1990. This short extension indicates that the committee is determined to report out and pass Comprehensive Defense Production Act amendments shortly upon our return from the August district work period.

Mr. SHUMWAY. Mr. Speaker, further reserving the right to object, I would like to say the administration very much is in favor of this short-term extension. We are making progress on the reauthorization of the Defense Production Act. I think this will see us through the recess and keep the act, which is a very important act for our national defense and national security, in place until we can complete our work here in the Congress.

The administration supports it, and so do I.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the bill as follows:

H.R. 5432

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "August 10, 1990" and inserting "September 30, 1990".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5432, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

THE WORLD'S MOST DANGEROUS MAN

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. SOLOMON. Mr. Speaker, several weeks ago during debate I held up this headline from U.S. News and World Report. This is the headline. And I warned this Congress that Saddam Hussein, labeled the most dangerous man in the world, was building a deadly arsenal of nuclear weapons, chemical weapons supplied to him by Communist China and the Soviet Union, that could disrupt peace in the Middle East and threaten the oil supplies that run America's cars and run America's industries. Today, this Hitler of the Middle East has done just that.

Mr. Speaker, let this be a warning to all of my colleagues who want to mothball our warships, ground our B-2 bombers, and decimate our troop strength. Tyrants like Saddam Hussein must be dealt with, and they cannot be dealt with from weakness, my colleagues.

[From U.S. News and World Report]

THE WORLD'S MOST DANGEROUS MAN—WITH BILLIONS TO SPEND AND HELP FROM THE UNITED STATES, THE SOVIET UNION AND EUROPE, SADDAM HUSSEIN IS AMASSING A TRULY TERRIFYING ARSENAL

In this strange season of political upheaval, with the lights of dictators winking out

around the globe, the world suddenly seems a saner and safer place. But as Mikhail Gorbachev and George Bush confer this week, providing a little new hope for safety and sanity, in ancient Baghdad, half a world away, a dangerous man with great ambitions is hosting a summit of his own.

While Bush and Gorbachev are signing agreements to reduce their aresenals of chemical and nuclear arms, Iraqi President Saddam Hussein, the host of the Arab summit, continues to spend billions of dollars in the pursuit and development of those very same weapons. What is even more troubling is that while the superpowers are trying to ensure that their bulging arsenals are never used, Hussein has already lobbed his nerve gas not only at his archenemies in Iran but at some of his own people, killing several hundred Kurdish tribesmen. It is no small irony that this new threat to peace and stability is coming from Mesopotamia, from the cradle of civilization, but if Saddam Hussein has taken note of the fact, he has not deigned to comment on it. He is not, after all, a man much inclined to humor. What he is, demonstrably, is the most dangerous man in the world.

In his ruthless and obsessive quest to become the "Sword of the Arabs," as Hussein lately has styled himself, he has relied upon the complicity of Western and other governments, the greed of middlemen, and a clandestine arms-procurement network with front companies in the U.S. and Europe. The Atlanta branch of Italy's biggest state-owned bank extended more than $1 billion in credit for Iraqi arms deals, U.S. officials say. A Canadian ballistics and rocket expert was helping Hussein build the world's biggest gun where he was mysteriously murdered in Brussels, and Iraq obtained hundreds of tons of a chemical used to make mustard gas from a Baltimore manufacturer before the transaction was caught by U.S. Customs.

The fateful combination that fuels Iraq's drive for military power is at once simple and familiar: Money, militarism and ego. With virtually unlimited funds from an oil industry that has an estimated 10 percent of the world's petroleum reserves, he has infinitely more cash to spend on instruments of destruction than Iran, Libya or North Korea. The U.S. intelligence community has consistently underestimated Iraq's military capabilities, but now a growing number of intelligence officials believe Hussein may have a nuclear-weapons capability in between two and five years. And unlike Kim Il Sung in North Korea, Hussein's ambitions are not contained by a powerful military on his border. His phenomenal military spending, estimated by some intelligence officials at as much as $50 billion over the past decade, has made him the world's single biggest buyer on the international market of chemical, biological and nuclear weaponry.

Even more frightening than his capabilities are the ample indications that Hussein has few qualms about using them. "I swear to God," he said in a statement printed around the world a few weeks ago, "we will let our fire scorch half of Israel if it tries to wage anything against us." Defenders of the Iraqi leader point out that he threatened to use force only in retaliation for an Israeli attack. But he is so isolated, both from his own people and from the international community, that no one knows for sure what he might do.

Worse, there is virtually no one, at home or abroad, who can restrain his worst impulses. He has few friends, even in the Arab world, and fewer and fewer within Iraqi's own political structure. He has stubbed out rivals, real and imagined, like cigarette butts, and Western intelligence agencies have reported several instances in which he has pulled the trigger himself. Hussein committed his first murder at 14, attempted his first political assassination at 22, and there is no evidence to suggest he has broken the habit. The State Department calls Iraq's human-rights record "abysmal" and says the country continues to harbor several of the world's most notorious terrorists.

In recent years, moreover, what few constraints there were on Hussein have withered. The Ba'ath Socialist Party, which he rode to power, and the Revolutionary Command Council, which he dominated once he got there, have both fallen into decline, and more and more of the business of government is being handled by trusted members of Hussein's own family.

□ 2210

REPORT ON SANCTIONS AGAINST IRAN ACT OF 1990

The SPEAKER pro tempore (Mr. HOYER). Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am submitting for printing in the RECORD the report by the Committee on Ways and Means to accompany the bill, H.R. 5431.

AMENDMENTS TO H.R. 5431 OFFERED BY MR. ROSTENKOWSKI OF ILLINOIS

In section 103 of the bill, redesignate subsections (b) and (c) as subsections (c) and (d), and after subsection (a) insert the following new subsection:

(b) ADDITIONAL IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the sanctions listed under subsection (a), and is consistent with the national interest, the President may prohibit, for such period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited the importation of products of Iraq into its customs territory; or

(2) given assurances satisfactory to the President that such an import sanction will be promptly implemented.

In subsection (d), as so redesignated, strike "subsection (b)" and insert "subsection (c)".

REPORT

PURPOSE AND SUMMARY

In the early hours of Thursday, August 2, 1990, the Government of Iraq sent a large military force into Kuwait, crushing the Kuwaiti army and, according to early reports, toppling the legtimate government of Kuwait. This unprovoked act of blatant aggression represents the worst in a series of aggressive and abusive actions by the Government of Iraq toward neighboring countries and its own citizens. Those actions have included highly credible reports of Iraqi use of chemical weapons against Iranian soldiers and its own Kurdish minority, coupled with recent threats by the President of Iraq to use chemical weapons against Israel.

These actions by the Government of Iraq violate every norm of civilized behavior. The purpose of H.R. 5431 as amended by the Committee on Ways and Means is to require the imposition of a wide range of economic sanctions against Iraq until such time as the President notifies Congress that he is lifting the sanctions. The sanctions provided for in the bill mirror the sanctions imposed by the President on August 2 under authority of the International Emergency Economic Powers Act, following confirmation of the Iraqi invasion of Kuwait.

Section 103(a)(2)(A) of H.R. 5431 is within the jurisdiction of the Committtee on Ways and Means. That subsection requires the President to prohibit the importation of any goods or services of Iraqi origin, other than publications and other informational materials. This import ban is to be imposed under the President's existing authority of the International Emergency Economic Powers Act. An amendment adopted by the Committee adds a new subsection (b) which authorizes the President, if he considers it would promote the effectiveness of the U.S. sanctions and is consistent with the national interest, to impose an import ban on any or all products of any country that has not prohibited the importation of Iraqi goods into its own territory or given assurances satisfactory to the President that such an import sanction will be implemented promptly. Although the President has general authority to impose such a third country import ban under certain circumstances, this provision clarifies the President's authority in this regard.

COMMITTEE ACTION

H.R. 5431 was introduced on August 2, 1990, by Congressman Dante B. Fascell for himself and others and was referred to the Committee on Ways and Means and other committees. On August 2, the Committee on Ways and Means considered those provisions of H.R. 5431 which were within its jurisdiction and ordered the bill favorably reported by voice vote with an amendment.

SECTION-BY-SECTION ANALYSIS

Following is an analysis of those provision of H.R. 5431 which are within the jurisdiction of the Committee on Ways and Means.

Section 1. Short Title

This section states that the bill may be cited as the "Sanctions August Iraq Act of 1990".

Section 101. Declarations of Policy Regarding the Iraqi Invasion of Kuwait

Section 102 sets forth six declarations of policy regarding the Iraqi invasion of Kuwait, including a condemnation of the invasion, a call for the immediate and unconditional withdrawal of Iraqi forces, a call for multilateral sanctions against Iraq, and other policy statements.

Section 102. Consultations with Congress

This section requires the President to keep the Congress fully informed, and to consult with Congress, with respect to events surrounding Iraq's invasion of Kuwait, including U.S. actions.

Section 103. Imposition of Embargo

(a) Requirement of Embargo: Effective immediately upon enactment of H.R. 5431, this subsection requires the President to impose a range of specified economic sanctions against Iraq, under authority of the International Emergency Economic Powers Act. Among the sanctions which the President must impose is a prohibition on the import into the United States of any goods or services of Iraqi origin, other than publications and other information materials.

(b) Additional Import Sanctions: This subsection, which was added as an amendment by the committee on Ways and Means, provides that if the President considers it would promote the effectiveness of the U.S. sanctions and is consistent with the national interest, he may impose an import ban on any or all products of any country that has not prohibited the importation of Iraqi goods into its own territory or given assurances satisfactory to the President that such an import sanction will be implemented promptly.

The Committee believes that unilateral trade sanctions have proven to be ineffective in the past to accomplish foreign policy objectives. This amendment provides the President with the tools necessary to ensure that similar sanctions are imposed by other civilized nations to maximize the pressure on Iraq to withdraw its forces from Kuwait and commit to living peacefully within its own borders. The provision was made discretionary in order to give the President maximum flexibility in using the authority of this section to accomplish the worthwhile objectives of this bill.

(c) Exceptions to and Lifting of Embargo: This subsection provides that the requirements of subsection (a) relating to the imposition of sanctions shall not apply to the extent that the President so notifies Congress in advance.

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the Bill: H.R. 5431 was ordered favorably reported by the Committee by voice vote with an amendment.

OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee, after extensive discussion and consideration of recent developments with respect to the Iraqi invasion of Kuwait, including the imposition of broad economic sanctions by the President, has concluded that H.R. 5431 as amended by the Committee is an appropriate response to the aggressive actions by the Government of Iraqi.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGETARY AUTHORITY OR TAX EXPENDITURES

In compliance with clause 7(a) of rule XIII and with clause 2(l)(3)(B) of rule XI of the rules of the House of Representatives, the Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill.

INFLATIONARY IMPACT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 5431 would not have any significant impact on prices and costs in the operation of the general economy.

THE WORLD REQUIRES A STRONG AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. McEWEN] is recognized for 5 minutes.

Mr. McEWEN. Mr. Speaker, 26 hours ago Saddam Hussein of Iraq took his forces, 700 tanks, 120,000 men, and marched boldly, in less than 6 hours, into Kuwait and took over a country while America slept.

This sort of activity reminds Members that we live in a dangerous world. We live in a world in which if a nation is not prepared to stand for its principles, it invites aggression. History has told Members that repeatedly.

Collectively, some months ago, the allies of freedom in NATO said that they would build an airport in Crotone, for our 401st Air Wing of the F-118 if the United States would but occupy it. It was going to be built and financed and paid for by our allies for less than half the price of 1 bomber. The F-18 would be stationed there on the lower flank of NATO for patrol of the Mediterranean.

Mr. Speaker, about 72 hours ago this House of Representatives said, "No, we don't need that, we will leave the Mediterranean unprotected by American air forces," and thereby invite those who wish to exert force in the area. Less than 24 hours later, the Committee on Armed Services said:

Now only will we withdraw our bases from abroad, but we will also not finance a long projected strategic bomber. We will no longer finance the next generation of technology for our defenses, and will not answer the administration's request for a strategic bomber that could project forces around the globe.

Thus, the United States is withdrawing into fortress America, in which it will withdraw from the rest of the world, leave our allies exposed, not join hands in defense of freedom and invite the crazies of the world to move aggressively against their neighbors. Mr. Speaker, we will leave here in another day. When we come back, I hope that a certain amount of sensibilities will have settled upon the Congress. We will recognize that when our allies choose to give the United States an air base, that we should occupy it; that when we are flying strategic bombers, having reduced our bomber force from 2,300 to less than 300 over the last 25 years, that we should begin to replace the remaining 364 that we have in our inventory, that we should begin to replace those with the next generations of bombers, the B-2, and that we will understand that the world requires a strong America with the loudest and strongest forces for freedom and democracy in the world, should not cover its head in the sand and withdraw from the world because every time the Congress has done it, it has invited aggression and cost American lives.

In the interests of peace, in the interests of freedom, in the interests of stability, America should occupy on the lower flank of NATO, Crotone, and it should continue the production of next generation of freedom bomber, the B-2.

ORDER OF BUSINESS

Mr. DORNAN of California. Mr. speaker, I ask unanimous consent to vacate my special order for 60 minutes for a 5-minute special order.

The SPEAKER pro tempore. is there objection to the request of the gentleman from California?

There was no objection.

THE MEDICARE/MEDICAID REIMBURSEMENT ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the people of the United States have long paid the bill for health costs incurred due to the use of cigarettes. Some of these costs are direct and measured in an unnecessary number of premature deaths and disabilities. Others are indirect and result in lost productivity to our economy. In dollars this means a cost to the Nation of $65 billion a year.

For 25 years now the Surgeon General has been advising us of the consequences of smoking. As a nation and as a Congress we have patronized, subsidized, and made exceptions for an industry whose products are responsible for more than one of every six deaths in the United States. It is time to make the tobacco industry accountable for part of the economic losses their products cause.

Therefore, Mr. Speaker, today I am introducing the Medicare/Medicaid Reimbursement Act of 1990 which assigns part of the health-related costs of smoking to the tobacco industry where it rightfully belongs. My proposal will permit the Secretary of Health and Human Services to recover funds expended in the care and treatment of Medicare and Medicaid patients with tobacco induced cancer, tobacco induced cardiovascular, and tobacco induced lung diseases.

Each year there are nearly 400,000 smoking-related deaths in the United States. Cancer due to smoking is the greatest cause of these deaths accounting for approximately 140,000 lives lost annually. Cigarette smoking causes 90 percent of all lung cancer cases in men, 79 percent in women. Lung cancer has surpassed breast cancer as the main cancer killer of women.

Cardiovascular disease, our No. 1 killer nationwide is the second most prevalent cause of smoking related mortality in the United States, accounting for 115,000 deaths annually. Smokers have more than twice the risk of heart attack as nonsmokers. Cigarette smoking causes up to 90 percent of all cases of chronic obstructive lung disease in the United States, killing another 57,000 persons each year.

The Federal Government spends more than $4.2 billion in Medicare and Medicaid payments annually to treat smoking-related illnesses. The tobacco industry's argument that people voluntarily choose to smoke in spite of the warning labels on cigarettes is not valid in a world where over 90 percent of all tobacco users begin while teenagers or younger, 70 percent of use has begun by age 15, and 50 percent by age 13. Thus we see that the majority of persons now creating the Medicare and Medicaid expenditures for cigarette-related health costs became addicted before the age of consent. We are talking about an addiction perpetrated upon children.

Even adults cannot be considered completely voluntary smokers because they remain uninformed participants. Our consumer safety laws, our hazardous substance laws and our toxic substance laws have all worked to protect the tobacco industry from disclosing the carcinogenic ingredients of cigarettes. Although the notification of risk of cancer appears on the cigarette packages, the specific information the consumer needs to make an informed consent is sadly missing. In this day and age, consumers often receive information about using possible cancer causing substances; recent examples are alar with apples and benzene with Perrier mineral water. Although immediate attention was given these substances to protect our health, few people realize that there is at least 50 times more benzene in a pack of cigarettes than in a single bottle of Perrier which was removed from the shelves. At this time no Federal agency has the authority to require that these additives be disclosed or even removed if they are found to be harmful. Smoking can hardly be called informed consent, nor is our Government acting responsibly to protect the consumers' health. Hopefully some of the important smoking advertising legislation introduced this session will be helpful in that regard.

In addition to those addicted to cigarette smoking, we now know that significant health care costs arise from the effects of passive smoking. The 1986 Surgeon General's Report stated that involuntary smoking is a cause of disease in healthy nonsmokers, resulting in approximately 4,000 lung cancer deaths a year. Also, the children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, doctor visits and hospitalizations.

Mr. Speaker, the cigarette manufacturers must become directly accountable for a portion of the health care costs they create. I propose that the tobacco industry's accountability be assigned in a very simple but fair and effective way. Every 3 years, the Secretary will be apprised of the Federal Government's averaged annual expenditure for the care and treatment of Medicare and Medicaid patients with tobacco induced disease. Each of the tobacco companies, domestic and foreign, will be assessed on an annual basis, payable quarterly, the percentage of that cost which their sales reflect for each of the next 3 years.

All of us recognize that much tobacco induced disease has long latency periods, and that the cigarettes sold today do not result in the cost of health care produced today. However, we are taking a clean slate and not assessing sales in the past. Sales today will result in lung cancer, cardiovascular disease and pulmonary disease in the future just as they always have. By averaging out the Medicare/Medicaid expenses and the industry sales over a period of years it will be equitable to both parties.

Mr. Speaker, the bill I am introducing today represents a most vivid way to bring to our level of awareness the very real responsibility the tobacco industry bears for the health tragedies and costs its products cause. That is why I have named it the Medicare/Medicaid Reimbursement Act. Congress must see in these critical times of health care cost containment that each responsible party pays his or her fair share of that cost. We must also enact legislation that will promote better health. I believe that my bill does both. By making the tobacco companies responsible for the actual paid-out costs of the Medicare/Medicaid program for smoking related diseases, the companies will realize the consequences of their activity. As this cost is passed along to the consumer it will have the positive effect of discouraging tobacco use.

In 1988, the top six cigarette manufacturers sold 556 billion cigarettes. If the $4.2 billion Medicare and Medicaid paid out for cigarette induced disease were divided among these producers it would cost them three/fourths of a cent per cigarette or 15 cents per pack.

It is estimated that a 16-cent increase in cost to the consumer would encourage almost 3.5 million Americans to forgo smoking habits. This figure includes more than 800,000 teenagers and almost 2 million young adults aged 20 to 35 years. Because adolescents usually have limited disposable income, their purchases are especially sensitive to increases in the price of cigarettes.

Unfortunately, use of tobacco among children and teenagers is at an alltime high. More than 3-million kids under the age of 18 are daily smokers, and another 2-million experimenters are at high risk of addiction. The tobacco industry needs to recruit children to replace the more than 3,000 adult smokers who quit or die every day. The young people becoming addicted today will be the cases of lung cancer and emphysema tomorrow.

Mr. Speaker, the occupational tax which I am proposing in the Medicare/Medicaid Reimbursement Act of 1990 must be considered in addition to the excise tax bills which are before Congress at this time. I myself have proposed such a tax and believe strongly in its merit. The bill which I am introducing today will provide for the recovery of economic loss to the people of the United States due to illness incurred by the use of tobacco and tobacco products.

The Medicare/Medicaid Reimbursement Act of 1990 can be a major step to make the 1990's the decade in which the tobacco industry will finally pay a measured amount of the true health care costs of cigarette smoking. It has taken us a long time to direct this cost to those responsible for it. However, just as the 1980's was the decade in which smoking became socially unacceptable, the 1990's can become the decade in which the tobacco industry pays for its costs to society. The end result will be a healthier nation.

ANNUNZIO CHALLENGES PROPOSED MEDICARE CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, an ill-wind is blowing over the Nation's Capital, and it bodes bad tidings for the elderly across the Nation. In its zeal to reduce the deficit, the Bush administration and some Members of Congress want to saddle senior citizens with the burden of trimming the debt by reducing the spending on Government benefit programs, primarily Medicare and Medicaid and Social Security.

I, too, want to cut spending and reduce the national debt which has grown to such extraordinary heights in the last decade that the average person cannot comprehend its magnitude until he or she sees how small their incomes have shrunk or how little they can buy with it.

However, I oppose any proposal that would place a further burden on the backs of our senior citizens, many of whom are currently living at or below the poverty line. Instead, I believe the negotiators should take a closer look and turn their budget ax to the Pentagon spending programs as a way of cutting $50 billion from next year's Federal budget deficit.

I wholeheartedly support the action of the House Armed Services Committee which this week voted to kill the B-2 Stealth bomber, drastically reduce the Star Wars antimissile program and cut into troop strength, thus slashing more than $24 billion from the Bush administration's $307 billion defense budget.

I believe more can be reduced from the defense budget. I personally believe that the Congress should make reductions in U.S. commitments abroad in order to make our trading competitors pick up a larger percentage of the costs of maintaining troops and weapons in Europe and the Far East.

Mr. Speaker, the threat of Social Security cuts has waned recently, but senior citizen groups have geared up to block any attempt to cut benefits as part of a deficit-cutting deal between the White House and the Congress. There are those, like myself, who believe that you don't have to touch cost-of-living increases in Social Security benefits to solve the budget deficit. There is no need for any change in Social Security because the trust fund is running a surplus and is not responsible for the deficit.

Despite the surplus, the administration has been able to cause problems for the elderly and the disabled on Social Security. According to news reports, the Social Security Administration has suspended hearings in September for people seeking disability benefits because money for administrative expenses are running short at the end of the fiscal year. Because the Social Security judges hear appeals under Medicare, the order to put off hearings also will affect beneficiaries of the Federal health insurance program for 33 million elderly and disabled people. Officials hope hearings will resume after October 1, the start of the next fiscal year, when they expect to receive an infusion of money. The Social Security Administration issued no announcement about

the curtailment of hearings, which was made Monday, but administrative law judges, who hear the cases, brought it to the attention of the New York Times because, they said, they were concerned that justice would be delayed.

Mr. Speaker, these types of incidents are disheartening to me because it is not you, or I, or the bureaucrat who will be injured. It is the elderly in this country that must suffer.

A recent Gallup survey showed that Americans 18 or older oppose substantial cuts in Medicare to reduce the Federal deficit by an 88-percent to 8-percent margin. The survey also showed that 70 percent of the respondents believed that raising taxes on high-income people, on alcohol, tobacco, and gasoline, and on businesses that create pollution, would be excellent or good ways of reducing the deficit.

In addition to opposing Medicare cuts, 65 percent of those surveyed believed the proportion of gross national product spent on all U.S. health care should be increased over the 11 percent level now in effect. On average, the favored proportion was 19.9 percent. The survey also suggested most Americans would be willing to spend more than the 6 percent of family income they now spend on health. While 29 percent felt the figure should be under 6 percent, 51 percent thought it should be from 6 percent to 10 percent and 7 percent felt it should be higher.

Mr. Speaker, I am happy to note that this week we celebrate the 25th anniversary of the Medicare and Medicaid programs which were born under the great society of President Lyndon B. Johnson to deal with the health problems of the elderly, the disabled and the poor. I am proud to say that I was one of the original sponsors of the legislation that became law on July 30, 1965 as titles XVIII and XIX of the Social Security Act.

No one thought the programs were perfect solutions. However, few doubted that many people's lives would be much better as a result of that action. And there is no doubt that millions of Americans are better off due to Medicare and Medicaid.

At a hearing of the House Select Committee on Aging to commemorate the 25th anniversary, famed actor Burt Lancaster set the tone by calling the gathering a "bittersweet" celebration. He said Medicare and Medicaid have gone a long way toward meeting the needs of millions who qualify for help under these programs. But there is still an enormous amount left to do.

He said 50 million Americans are uninsured or underinsured. Of the 50 million, 37 million have no insurance at all, and many of those are the elderly. Thanks to Medicare and Medicaid, they have at least some coverage.

Any illness to these peoples' lives quickly becomes catastrophic, because of the crushing financial burdens they must face. Nursing home costs now average $30,000 and up a year. Families who try to provide care in their own home must suffer tens of thousands of dollars in lost income.

Mr. Lancaster said the United States, still the richest Nation on earth, must find a way to provide all of its people with universal, comprehensive health care. I agree, we must make a commitment to all Americans by guaranteeing them a National Health Plan.

During my 26 years in Congress, I have supported many, many programs to help the elderly of the Nation. This session of Congress has not been different. Among others, I have cosponsored bills to take into account monthly earnings in determining the amount of disability benefits payable under Social Security, to provide protection against expenses of long-term home care under the Medicare program and to establish a national health plan administered by the States.

The House Select Committee on Aging and U.S. Bipartisan Commission on Comprehensive Health Care, better known as the Pepper Commission, each have recommended programs to ensure health and long-term protection for all Americans.

The committee issued a report at the hearing which outlined a set of proposals representing expansions and improvements to the Medicare and Medicaid programs. It also is designed to bring comprehensive health care and long-term care reform. It leans toward a federally-based, nationwide program built upon Medicare and covering health and long-term care. The Pepper Commission, named for that great defender of the elderly, the late Congressman Claude Pepper of Florida, has recommended—its final report will be completed in the fall—the use of employer-mandated health insurance, Medicare and an improved Medicaid-type program to ensure health and long-term care protection. The commission believes the Government should help the elderly poor pay Medicare charges, add coverage of preventive services to Medicare and order improvements in supplementary insurance coverage.

Mr. Speaker, there are other recommendations and proposals, such as adopting the Canadian national health plan, all meritorious and worth studying. The important thing is that comprehensive reform is picking up supporters from a broad spectrum of the American public. They want to help the elderly, disabled and poor fight the rising costs of health care. So the final chapter has not been written, despite 25 successful years of Medicare and Medicaid. We must continue the battle, even if it takes 25 more years. We cannot do less for our elderly.

SERBS IN KOSOVO NEED OUR HELP, NOT OUR CONDEMNATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, in recent days, there has been a good deal of debate in Congress on the volatile issue of Serbian-Albanian relations in Kosovo.

This is an explosive issue which must be reasonably discussed if we are to defuse extreme passions and restore peace in this strife-torn province.

There is no doubt that mistakes have been made on both sides. Yes, there has been violence in Kosovo, and, yes, it has been brought on by Serbs and Albanians.

Yes, the Republic of Serbia has instituted a state of emergency in Kosovo and suspended the free press. And, yes, people have had their freedoms taken from them in part or in full; some have even died.

But while this is not excusable, it must be viewed in the context of the ethnic conflict going on in Kosovo today. To understand this conflict, you must know something of the history of this region.

Contrary to what some may be saying, Kosovo is the homeland of the Serbian people. It is their cradle and their birthplace. Serbians were living in Kosovo far before the immigrant Albanians arrived.

Indeed, Serbians have defended their homeland for centuries. Just last year, we commemorated the 600th anniversary of the battle of Kosovo Polje in 1389 in which Prince Lazar of Serbia martyred himself fighting for Serbian freedom and his orthodox Christian beliefs against a much larger contingent of invading Turkish troops.

Knowing this painful history, we should not be singling out the Republic of Serbia or any other government for condemnation. Instead of blaming other governments, our Government should be taking positive steps, such as offering its good offices, toward resolving this tragic situation.

Nobody is really sure how peace can be brought to this tortured province. We do know that Albanians and Serbs are both dying, and that this must stop. Making inflammatory statements blaming only one side will not help. Instead, let us carefully consider the history of Kosovo, and then formulate a reasoned position on what we can do to help.

THE ARCHIVES OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, for the past several years I have served as Chairman of the Commission on the U.S. House of Representatives Bicentenary and as a member of the National Historic Records and Publications Commission. During this period I have had opportunities to work closely with the National Archives, the Clerk of the House and the Secretary of the Senate—the individuals with direct responsibilities for the record of Congress—and with the historians of the House and Senate. One of the things that has impressed me most about my experiences is the importance of our official records and papers since they represent the documentary heritage and memory of this institution.

Unfortunately, there are some very real concerns that our records are not receiving the quality of attention and maintenance they deserve and require. The Center of Legislative Archives at the National Archives deserves a higher level of professionalism and stability than currently exists. There is also a real need for a more formalized system of advice and guidance from the officers and leadership of the House and Senate to the Archives regarding the maintenance of our legislative records.

The records of Congress constitute a relatively small collection within the National archives. Over the years, they have been generally given a low priority and treated like the records of a minor executive branch agency.

Between 1938 and 1982, they fell within the jurisdiction of thirteen separate units, including those responsible for diplomatic records, Indian records, and judicial records. The records of Congress are unique, complex, and representative of one-third of the national government's structure. Strategies for management of executive branch records are not necessarily appropriate to legislative records.

Today I am introducing legislation to improve the management of the records of Congress in the custody of the National Archives. This legislation would accomplish the following:

First. Establish the position of Director of the Center for Legislative Archives at a GS–16 salary level—the position is currently set at the GS–14 level.

Second. Establish the position of Specialist in Congressional History in the Center for Legislative Archives at a salary level of GS–13/14—this would be a new position.

Third. Create a permanent 11-member advisory committee on legislative records. That committee is to meet semiannually, and its chairmanship will be held in alternating Congresses by the Secretary of the Senate and the Clerk of the House of Representatives.

The committee will include the following members:

Secretary of the Senate;
Clerk of the House of Representatives;
Archivist of the United States;
Senate Historian;
House of Representatives Historian;
Appointee of the Speaker of the House;
Appointee of the Minority Leader of the House;
Appointee of the Senate Majority Leader;
Appointee of the Senate Minority Leader;
Appointee of the Secretary of the Senate; and
Appointee of the Clerk of the House of Representatives.

These changes will go a long way toward stopping the revolving door that prevents the development of expertise in Congressional Records at the Archives, and the new advisory committee will give us an important new mechanism to continue to improve the Center for Legislative Archives in the future. The records of Congress, representing an entire branch of government, need proper maintenance, preservation, and the attention of top archival and historical experts. While smaller in volume than some agencies of the executive branch, they are nonetheless of great importance to the House and Senate, as well as the public.

INTRODUCTION OF RESOLUTION TO COMMEMORATE ELLIS ISLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. GUARINI] is recognized for 5 minutes.

Mr. GUARINI. Mr. Speaker, I rise to introduce, with 73 of my distinguished colleagues, a resolution to commemorate Ellis Island by declaring October as National Ellis Island Month. In 1992, Ellis Island will be celebrating its centennial; the first immigrants passed through there in 1892.

Ellis Island is a symbol of hope, liberty, and freedom for millions of people in our country. More than 17 million immigrants first set foot on American soil at Ellis Island. Those who sought a new beginning and freedom saw Ellis Island as a beacon of hope and a gateway to their independence. Their dedication, patriotism, and hard work helped build a foundation of prosperity and opportunity for all, which has made our country the envy of the world.

Forty percent of all living Americans can trace their heritage to an ancestor who had come to the United States through Ellis Island. Now, after years of renovation, Ellis Island is scheduled to reopen in the fall of 1990 as a historical site of interest to tourists, as well as families of past immigrants.

Designating October 1990 as National Ellis Island Month will remind us of those early pioneers. It will also honor the hard work of the people who made the refurbishing of Ellis Island possible * * * the largest historic renovation project in the history of the United States. Finally, it will be a timely reminder of the upcoming 100th year of Ellis Island.

It is time for us to commemorate what was "the other side of the rainbow" for millions of citizens of the world community. I urge my distinguished colleagues who have not had the opportunity to cosponsor to do so as soon as possible so we can celebrate October as National Ellis Island Month.

ON THE SUBJECT OF HUMAN RIGHTS IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. SAIKI] is recognized for 5 minutes.

Mrs. SAIKI. Mr. Speaker, I rise to express my concern over the human rights situation in Yugoslavia.

In stark contrast to the events in much of Europe over the past year, the human rights situation in Yugoslavia has taken a turn for the worse. The ethnic Albanian population of Kosova has felt the heavy hand of the Government of the Republic of Serbia, first, by the imposition of a state of emergency last year, and then also through a series of constitutional amendments which effectively suspended the autonomous status of the province of Kosova.

Human rights organizations have also documented numerous violations of the rights of the Albanian people including: Indiscriminate killings and mistreatment by police, arrest and detention of Albanian community leaders, imprisonment of Albanians without due process, and many other examples of systematic discrimination against Albanians.

On July 5 of this year, even stricter measures were placed against the Albanian people. One day, after we in the United States celebrated the anniversary of our independence, the Serbian Government dissolved the Kosova provincial assembly, disbanded the local government, closed down radio and television stations, and detained members of Kosova's democratic opposition leadership. An Albanian language newspaper has since been banned from distribution, and police force has been used against strikes and assemblies.

Mr. Speaker, we in the U.S. Congress must speak out against this suppression of democracy. The Albanian people deserve the same basic democratic rights we enjoy in America. It is my hope that our Government will convey in the most emphatic terms to the Government of Yugoslavia, the feeling of outrage which is felt here in America at these events, and that we will not extend any economic aid to Yugoslavia until that country meets the "Baker criteria" for foreign economic assistance.

SUSPENDING MFN STATUS TO YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, on this date, when there is bloodshed and suffering around the world, I rise to speak about a bill that I am one of the original cosponsors on today. It is drafted by Mr. BROWN of Colorado, our colleague, Mr. CRANE of Illinois, and Mr. TRAFICANT of Ohio, the four original cosponsors.

It is a bill to suspend the most-favored-nation trade privileges to the Socialist Republic of Yugoslavia. Mr. Speaker, I come from a part of California where just about every ethnic group in the world is represented.

□ 2230

Mr. Speaker, my family is married into a great Serbian family in southern California, the Radovichs. I have got a good friend, Mike Antonovich, who has been a supervisor in Los Angeles County for years. But I have also made friends over the years with Slovenian-Americans, Croation-Americans, Montenegran-Americans, Albanian-Americans who are, because of this strange carving up of this area after World War I in Yugoslavia.

Mr. Chairman, I have enjoyed traveling to Yugoslavia. I have enjoyed going to the coast along Dubrovnik. I must have 100 or 200 friends who visited Medjugorje in Yugoslavia. They received great treatment from the Government. But the Government in some areas has been a serious violator of human rights.

Now they have taken a friend of mine, a good friend, a former Member of this body for 4 years, Mr. Dio-Guardi of New York, and they have banned him from the country for 5 years in some sort of extralegal matter after he visited the country with Mr.

TOM LANTOS of our body, one of our current sitting Members, outstanding Member on human rights.

So, I would like to just submit at this point in the RECORD the bill that we are on, a letter to Mr. James Baker by Mr. LANTOS asking that our State Department vigorously appeal this shoddy treatment of a former Member of Congress; and then I would like to put in the RECORD a letter by Mr. LANTOS and Mr. BEN GILMAN, both members of our human rights caucus, to his Excellency, Jacques Delors, the President of the European Commission, that explains why some of us in this Congress, particularly members of the human rights caucus, and I am one of those, feel that there are these emerging, terrible and, in some cases, vicious human rights problems in Yugoslavia and why the Government should be tough, forthcoming, join the whole drift in the world, and this country that is made up of so many wonderful ethnic groups should be setting a standard of excellence for human rights instead of trying to cover them up.

So, as a proud Irish-American who has Serbian-Americans in my extended family, I want to submit these for the RECORD and ask the Government in Yugoslavia to get with the program here, the program of decency for human rights around the world, and maybe we will never have to implement legislation to do to the Yugoslavian Government what we had to do to the government in Romania, and that is take away something that all these countries treasure, that even the Soviet Union is lusting for, most-to favored-nation trade status.

Mr. Speaker, before I yield back the time, I ask people to pray for those Kuwaiti soldiers, the enlisted men and officers, just a handful, who had the guts to fight for their young country today while looking over their shoulders toward Saudi Arabia wondering if their American allies were coming to back them up. I hope they did not die in vain because they shed blood for a little jewel of a nation. Kuwait has been swallowed whole within less than 7 hours by, yes, the most dangerous man in the world, Saddam Hussein.

U.S. CONGRESS,
Washington, DC, July 24, 1990.

Re Human rights in Yugoslavia.

His Excellency JACQUES DELORS,
President, European Commission,
Brussels, Belgium.

DEAR MR. PRESIDENT: As members of the United States Congress and as Chairman and Vice Chairman of the Permanent U.S. Congressional Delegation to the European Parliament we are writing to express our serious concern over the human rights crisis in the Southern Yugoslav Province of Kosova, and to urge the European Community in all its dealings with Yugoslavia to apply the Baker guidelines—respect for human rights, adherence to the rule of law, establishment of political pluralism, holding of fair and free elections, and the development of a market economy.

While the human rights situation in most of Eastern Europe improved steadily throughout 1989 and the first half of 1990, it has deteriorated dramatically during that same period in Kosova. First, the Government of the Republic of Serbia contrived the imposition of a state of emergency by the Federal Government of Yugoslavia throughout the Province of Kosova on February 27, 1989. Second, the Serbian Government abrogated the autonomous status of the Province on March 28, 1989, through a series of questionable constitutional amendments. These two actions effectuated a pattern of gross and massive human rights violations in Kosova.

According to the United Nations, the European Parliament's Commission of Inquiry, the International Helsinki Federation for Human Rights, the International Federation for Human Rights, and Amnesty International, these violations included:

(a) The indiscriminate police killing of at least fifty-eight and the brutal maltreatment of several hundred peaceful Albanian demonstrators;

(b) The arbitrary arrest and detention of at least 213 Albanian community and economic leaders;

(c) The summary trial and imprisonment of over one thousand Albanians without due process of law;

(d) The purging of several hundred Albanians from the Communist Party as well as state and local government, the administration of justice, and various other institutions;

(e) The arbitrary dismissal of in excess of eight thousand Albanian workers from large and small enterprises;

(f) The selective firing and disciplining of Albanian professors and teachers;

(g) The closure of numbers of Albanian schools and the elimination of Albanian language, history, and cultural instruction;

(h) The attempted silencing of Albanian journalists and broadcasters; and

(i) The segregation of the Albanian from the Serbian population through redistricting and through the creation of separate schools, hospitals, and work places.

All these repressive measures were calculated to prevent the Albanians in Kosova from participating equally in the political, economic, social, and cultural life of the Province by denying them such basic human rights and freedoms as the rights to liberty, peaceful assembly, engagement in public life, work, and education, as well as the freedoms of opinion and expression.

Despite the severe restrictions on these democratic rights, the democratic movements in Kosova have attracted large numbers of Albanian supporters. Tens of thousands of these supporters demonstrated the strength of their democratic convictions by taking part in peaceful pro-democratization rallies organized throughout the Province of Kosova in January-February of this year, knowing full well that these would be brutally dispersed by Yugoslav and Serbian security forces wielding automatic assault weapons armed with high caliber live ammunition. This year, between the end of January and the beginning of February, at least thirty-four Albanians are known to have been killed by Yugoslav and Serbian security forces during those pro-democratization rallies.

Although the strict emergency measures imposed by the Yugoslav Federal and Serbian Republic Governments were formally lifted on April 21 this year, the Serbian police presence in Kosova increased substantially, with the Province's day-to-day decision-making and administration of justice effectively placed under their control. The word "democracy" became a "slogan with hostile content" whose use resulted in six days imprisonment.

On June 29, the Serbian Parliament institutionalized this de facto police state in Kosova by promulgating the Special Circumstances in Kosova Act. The Act authorized the Serbian Government to dissolve the Kosova Provincial assembly, disband its government, and introduce special measures to safeguard public order. Pursuant to these provisions, the Serbian speaker of the Kosova Assembly tried to postpone its session from July 2 to July 5. The members of the Assembly did not agree to the postponement and adopted a resolution proclaiming Kosova an "independent unit of Yugoslavia" subject to free elections on July 2. In response, on July 5, the Serbian Government dissolved the Assembly, disbanded the local government, brutally closed down the radio and television stations, and detained and questioned all of Kosova's democratic opposition leadership. Since the imposition of this state of emergency, other human rights have been abrogated. For example, the Albanian-language newspaper "Rilindja" has been banned from distribution, and strikes and assemblies have been prohibited and met with police force. The President of Kosova has, moreover, asked for intervention by the federal authorities.

In light of these developments we urge the European Commission to condition its negotiations regarding the Second Financial Protocol with Yugoslavia and transfer her Cooperation Agreement into an Association Agreement on respect for human rights, adherence to the rule of law, establishment of political pluralism, holding of fair and free elections, and the development of a market economy. These are the conditions we believe the Commission advised the Council of Foreign Ministers to adopt in its May 30 Communication on Relations Between the European Community and Yugoslavia. Only if these conditions are applied by all governments will democracy and stability be ensured in Kosova as well as Serbia.

Sincerely,

TOM LANTOS,
BENJAMIN A. GILMAN,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 1, 1990.

Hon. JAMES A. BAKER III,
Secretary of State of the United States, Department of State, Washington, DC.

DEAR MR. SECRETARY: An issue of extreme importance that I wish to raise with you is the decision of the Government of Yugoslavia to ban former Congressman Joseph J. DioGuardi from visiting Yugoslavia for a five-year period. This strikes me as an arbitrary, capricious, and outrageous totalitarian action that we in the United States have consistently and vigorously opposed. I ask that the Department of State protest this outrageous action of the Yugoslav government.

The actions of Mr. DioGuardi, which the Yugoslav government cites as the basis of its ban against him, took place during a visit to Yugoslavia where I was present. A member of the staff of the U.S. Embassy in Belgrade was also present with us during that visit to Kosova. The strongest point made by Mr. DioGuardi—and a point which

I made repeatedly during that visit—was that ethnic Albanian citizens of Yugoslavia should be entitled the same civil and human rights that other citizens of Yugoslavia enjoy.

I urge the State Department to raise this issue with the Yugoslav government immediately, and unless this arbitrary and capricious decision is reversed our Government must take strong action against Yugoslavia.

Cordially,

TOM LANTOS,
Member of Congress.

H.R. —

A bill to suspend most-favored-nation trade privileges to the Socialist Federal Republic of Yugoslavia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress—

(1) finds that elements with the Government of the Socialist Federal Republic of Yugoslavia have failed to meet their obligations as a signatory to the Helsinki Final Act of the Conference on Security and Cooperation in Europe with respect to their treatment of ethnic Albanians;

(2) recognizes and emphasizes the continued dedication of the United States to fundamental human rights (as noted in section 402 of the Trade Act of 1974) and is concerned with the lack of commitment to those rights by authorities within the government of the Socialist Republic of Serbia as they relate to ethnic Albanians living in Serbia and throughout the country;

(3) finds that the government of Serbia has, against the will of many of its people, placed substantial obstacles in the way of democratic reforms and has suspended the Kosova Assembly;

(4) finds that Serbia has reintroduced a State of Emergency in Kosova and has greatly increased its military and police presence in the Province;

(5) finds that Yugoslavia does not meet the five point criteria set forth by the Administration for the receipt of economic assistance: Adherence to the rule of law, respect for human rights, multi-party political systems, free and fair elections and a movement toward a market oriented economy;

(6) believes that extension of non-discriminatory treatment (most-favored-nation) for products of the Socialist Federated Republic of Yugoslavia will be construed by leaders of those elements within Yugoslavia which support the practices mentioned above as an endorsement of such practices and will serve as cause for their continuation.

SEC. 2. SUSPENSION OF NONDISCRIMINATORY TREATMENT FOR YUGOSLAV PRODUCTS.

The products of the Socialist Federal Republic of Yugoslavia shall not receive nondiscriminatory (most-favored-nation treatment) beginning on the date of enactment of this Act.

THE FACTS ON YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I was very disturbed over the past two nights to see a few of my colleagues take to the floor of this Chamber and continue to spread their one-sided and very inaccurate view of the present situation in Yugoslavia.

For the benefit of the House, I will attempt this evening to counter some of the baseless allegations that were made with facts. I will also share with the House, portions of a speech given 2 weeks ago by former Ambassador John D. Scanlan who represented our Nation in both Poland and Yugoslavia. Those of us who are privileged to consider John Scanlan our friend know that he has a long and distinguished career in the diplomatic corps, particularly in Soviet and Eastern European affairs.

Ambassador Scanlan offered his very insightful remarks on the Yugoslav issue, which is of great importance to United States foreign policy.

It is said, Mr. Speaker, that a little knowledge can be very dangerous. The remarks of some of my colleagues over the past 2 days gives new meaning to that old quote.

Ambassador Scanlan's views are vital to this debate becaue of his great expertise on this region of the world. In his speech, Ambassador Scanlon noted a recurrent theme in the American view of the Yugoslav situation. It goes, and I quote, "Good Slovene—Bad Serb—Poor Albanian."

Ambassador Scanlan was calling attention to the general American ignorance of Yugoslavia's history, culture, and geography, without which the present situation cannot be understood without a firm understanding of these factors.

Ambassador Scanlan took particular exception to the view that the Albanians are the victims in Kosovo. In addressing this issue, 2 weeks ago, Ambassador Scanlan raised the following charge, and I quote:

> Most Americans do not know that there are almost as many Albanians living in Yugoslavia as in Albania and that 90 percent of the Albanians in Yugoslavia are Moslems who are able to practice their religion freely in Yugoslavia, But not in Albania. Most Americans do not know that the Albanians in Yugoslavia enjoy the same civil and human rights as all other Yugoslavs and have infinitely more freedom in Yugoslavia than the Albanians in Albania, the last Stalinist State in Europe. Most Americans do not know the Albanian is a legal language in the Kosovo and that all Albanian children in the Kosovo attend Albanian language schools all the way through university, and Pristina is one of the largest universities in Europe in terms of numbers of students. Most Americans do not know that the largest and most modern library and repository of Albanian literature and culture is in Yugoslavia, in the city of Pristina, not in Albania, and that that library is one of the largest and finest libraries in Yugoslavia.

Here, Mr. Speaker, is one of the most well versed and respected American authorities on Yugoslavia, giving his assessment of the Kosovo crises.

Ambassador Scanlan echoed the position of our own State Department which issued the following statement regarding Kosovo on June 29, 1990. It reads:

> We are deeply concerned about rising tensions in the province of Kosovo, in the Yugoslav Republic of Serbia. Rooted in a long history, the conflict between ethnic groups living in the area threatens the well-being of all the people of Kosovo, Serbia, and Yugoslavia.
>
> We believe this conflict can only be resolved through peaceful, democratic dialogue and respect for the dignity and human rights of all citizens of the province. It cannot be solved by means of violence, intimidation, or the threat or use of force by any party.

□ 2240

> By the same token, we call upon the Albanian population in Kosovo to respect and protect the rights of all resident Serbs and Montenegrins and others.
>
> It is for the people of Yugoslavia alone to decide under what constitutional arrangements they wish to live. The United States continues to support the unity, independence, and territorial integrity of Yugoslavia. We hope that the people of Yugoslavia, of all national and ethnic groups, will live together on the basis of mutual respect, democratic pluralism, and the principles enshrined in the Helsinki Final Act and CSCE process. It is incumbent on the ethnic majority in each republic and province to guarantee the security and fundamental human rights of all national and ethnic minorities living within its territory.
>
> Since World War II Yugoslavia has, on the whole, provided a commendable example of national, cultural, and ethnic harmony in a multinational state. We hope Yugoslavia can continue this proud tradition.

Mr. Speaker, the statement I just read is one of the most balanced views of the Kosovo crises that I have seen. It recognizes the legitimate grievances of both Albanians and Serbs in Kosovo and calls for greater respect for the rights of all.

And I might add, it is a far cry from the demagogary offered by those who have spoken on this issue over the last 2 nights.

Earlier, I said that a little knowledge is dangerous. In reading the remarks of those who spoke, I see the wisdom of this saying. For example, the gentleman from Colorado [Mr. BROWN] last night painted a picture of the Albanians in Kosovo as being a people who only want to return to the autonomous status they were guaranteed by Tito's constitution of 1974. I would point out to the gentleman, that this Constitution was imposed on the Serbs by a ruthless Communist dictator whose objective was to split the vast majority of the Serbian people from Kosovo, their ancestral homeland for hundreds of years.

I might insert at this point, Mr. Speaker, an AP piece that has just come over in the last few days which refers to Mr. Tito. It says that there were a number of discoveries of burial pits filled with thousands of human bones and that these have revealed

the fate of anti-Communist captured by Communist-led partisans at the end of World War II.

They have forced a reevaluation of the late President Josip Tito and other guerrilla leaders who were lionizing for 45 years as Yugoslavia's liberators from the Nazis.

Mr. Speaker, I will include the whole article at this point:

[From the Associated Press, Aug. 2, 1990]

NEWLY DISCOVERED MASS GRAVE REVIVES OLD FEUDS

ZAGREB, Yugoslavia.—Discovery of a burial pit filled with thousands of human bones has stirred old ethnic hatreds and political feuds in this troubled nation.

Several such discoveries have revealed the face of anti-Communists captured by Communist-led partisans at the end of World War II.

They have forced a re-evaluation of the late president Josip Tito and other guerrilla leaders who were lionized for 45 years as Yugoslavia's liberators from the Nazis.

The mass grave at a pit known as Jazovka in the rolling, wooded hills of Croatia about 35 miles west of Zagreb, is fanning rivalries between Croats and Serbs that date to the unification of Yugoslavia in 1918.

Videotapes of the scene show human remains, more than 10 yards deep in places, covering the floor of the cavernous grave, the last resting place of an army of 40,000 Croats who collaborated with the Nazis.

Most of the victims were Ustasha soldiers fighting for the German-sponsored Croatian puppet state. They were killed by the victorious Communists in what witnesses said was a carefully planned operation during the three months after World War II ended.

Teams of explorers lowered into the pit said it consists of a vertical funnel about 45 yards long leading into a large, downward-sloping cavern packed with human bones, army boots, belts, crutches and other items.

The grave, found in June after a former partisan involved in the killings told journalists about it, has inspired debate about the 1 million people believed killed in fratricidal clashes from 1941 to 1945.

Serbs claim 700,000 compatriots were murdered by Croatian Ustashas in Jasenovac, one of several death camps that existed in Croatia during the war.

Ustashas were fanatical, SS-like units of Croatian nationalists accused of killing hundreds of thousands of Jews, Serbs and gypsies in concentration camps set up by the Nazi puppet state.

Nationalism is on the rise in Serbia Both its Communist rulers and political opposition demand that Croatia, now led by non-Communists, pay reparations for Ustasha atrocities.

"There will be no peace in Yugoslavia until the blood of 700,000 Serbs is avenged," Vuk Draskovic, leader of an extremist Serbian nationalist party, told The Associated Press.

In an attempt to reduce tension, Croatia's ruling center-right Democratic Union party has proposed an investigation by the national parliament of civilian and military casualties in the war.

The Jazovka revelations have heated emotions on both sides.

"Discovery of the Jazovka it has enabled us to set our history straight," said Ivan Cesar, a Croatian Christian Democrat. He said the Communists "instilled in us a complex that we are a genocidal people."

The prominence given the discovery in the Croatian media has angered Serbs who remember Ustasha violence.

"There are hundreds of similar pits throughout Croatia containing the bones of innocent victims of Ustasha genocide against the Serbs," said NIN, a Serbian magazine. "Why does the Croatian press devote such attention to only one pit, while maintaining complete silence about the others?"

Jovan Raskovic, leader of the 500,000-member Serbian minority in Croatia, rejected a proposal by the republic's reform Communists that all republican parties commemorate massacres by both sides in order to end the "civil war raging since 1941."

Extremist members of Raskovic's Serbian Democratic Party called the proposal "just another premeditated effort to deceive the Serbian people."

Ambassador Scanlan himself addressed this issue in his recent remarks when he said that, and again I quote.

Most Americans do not know that Serbia is the only Republic of Yugoslavia that had two autonomous regions carved out of it by the Yugoslav Constitution of 1974, when there was just as much justification for carving out of Croatia an autonomous region of Lika to recognize the more than half million Serbs living there or an Autonomous region of Istria to recognize the large Italian minority living there.

Again I want to emphasize the fact there are other areas in Yugoslavia where there are large minorities and they have not asked for autonomy.

I do not know if Mr. BROWN has ever read or even seen the Yugoslav Constitution of 1974 or if he is aware of the circumstances under which it was imposed, but I would suggest to him that he consider reviewing all these issues before making such authoritative pronouncements on the crises in Kosovo.

However, Mr. Speaker, I do want to point out that I hold the gentleman from Colorado in the highest regard. He is a distinguished Member of this body, and although I question very strongly how he has come by his views on this issue, I look forward to the opportunity to continue to share my thoughts with him.

I would next like to address my comments to the remarks of the gentleman from California [Mr. LANTOS], which I consider to border on the outrageous. Mr. LANTOS raised his tired and discredited apartheid charge once again against the Serbs in Kosovo. Earlier this year, Congressman JIM MOODY and I answered this allegation in a letter to every Member of the House.

Once again, Mr. LANTOS presents the Albanian case for autonomy, ignoring the very reasons for which the Albanians themselves, by their repeated and sustained criminal actions against others living in the province, forced the Yugoslav Federal and the Serbian Republican Government to act.

Before I go any further, I would like to address Mr. LANTOS's complaint that our former colleague Joseph DioGuardi has been barred from traveling to Yugoslavia for the next 5 years. I would point out to Mr. LANTOS that when American citizens travel abroad they are the guests of sovereign foreign nations. Perhaps if Mr. DioGuardi had behaved as a proper guest while in Yugoslavia he would not now be barred from visiting that country. I would note that even our own diplomats in Belgrade were disturbed over Congressman LANTOS' and Mr. DioGuardi's actions and remarks while in Yugoslavia earlier this year.

Because I have already done so many times on this floor, I will not again point out the flaws and inaccuracies in Mr. LANTOS' presentation on the situation in Kosovo. I would direct Members attention to the letter that Congressman MOODY and I sent to each Member of the House on this subject earlier this year and ask Members to let me know if they need another copy of this letter. I would also remind Mr. LANTOS that it was not until the Albanian majority in Kosovo's Parliament voted to secede from Serbia that a state of emergency in Kosovo was reimposed. This vote was in violation of the 1974 Constitution on which the Albanians based their rights and the legitimacy of which many of us question.

There is one final comment in Mr. LANTOS' remarks that I feel must be addressed. While on one hand condemning Yugoslavia and Serbia and calling for United States sanctions against them, Mr. LANTOS also called on our State Department to establish full diplomatic relations with Albania. Mr. Speaker, perhaps Mr. LANTOS is unaware that in Albania today, it is illegal for a member of my church, the Orthodox Church, to have a priest baptize a child when it is brought into this world, or bless a grave when someone is laid to rest. Albania is, in the words of Ambassador Scanlan only 2 weeks ago, still the last Stalinist regime in Europe.

During my two trips to Kosovo this year, I noted progress on the construction on new mosques throughout the region, as well as the signs of islamic religious activity. Ambassador Scanlan himself noted this fact 2 weeks ago when he said, and again I quote:

Most Americans do not know that there are almost as many Albanians living in Yugoslavia as in Albania and that 90 percent of the Albanians in Yugoslavia are muslims who are able to practice their religion freely in Yugoslavia, but not in Albania.

In light of all these circumstances, Mr. Speaker, I think it is very irresponsible of Mr. LANTOS to advocate diplomatic censure for Yugoslavia while in the same breath calling for full diplomatic relations with Albania.

□ 2250

Mr. Speaker, no one questions that there have been human rights viola-

tions in Yugoslavia. As Ambassador Scanlon said, "We should not hesitate to condemn human rights violations whenever and wherever we find them." However, he cautions, "We should be totally objective in doing so and, in a powder keg of ethnic divisiveness such as Yugoslavia represents today, we should be extremely cautious to avoid the appearance of tilting for or against any ethnic group, particularly when emotions are as high as they are today in Kosovo.

If the Members of this House truly wish to promote and foster increased human rights for the people of Yugoslavia, then let us not be selective in who we criticize. Let us speak for the human rights of not only the Albanians of Kosovo, but the Serbians and Montenegrins there as well, who have also suffered. There is not a single republic in Yugoslavia that does not have significant minority populations.

The situation of the Serbs and Jews in Croatia should be addressed in the same context. I would note that the Helsinki Commission report, after our visit in April, stated that the single largest problem facing the Jewish people in Croatia was Croatian refusal to permit the building of a synagogue in Zagreb. I can say with no hesitation that the Albanians of Kosovo have more freedom and autonomy than the Serbs and Jews living in the so-called liberal northern Yugoslav republics of Croatia and Slovenia.

Mr. Speaker, I appreciate the time I have been given this evening and urge the House to follow the advice of Ambassador Scanlan who calls for the United States to allow the Yugoslavs to resolve the situation on their own with the United States taking the position of neither side. To quote once again Ambassador Scanlan,

> The modern Kosovo problem has been created by all the Yugoslavs, let them now all join together with malice toward none and charity toward all, to solve the problem. It is in their common interest, and in ours, that they do so.

Mr. MOODY. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Wisconsin, who has lived and who has spent some 2 or 3 years living in Yugoslavia and is very familiar with the situation.

Mr. MOODY. Mr. Speaker, I thank the gentlewoman from Maryland for yielding, and I appreciate her comments. I would like to associate myself with her comments, because I think they attempt to put some perspective on a situation that is very complex. It is historically complicated and has been misinterpreted and misstated quite frequently, not only in the U.S. press but on the House floor right here. In fact, this evening some earlier comments were quite inaccurate in their content, and I appreciate the gentlewoman bringing up the time facts about Kosovo.

Mr. MURTHA. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I want to join the gentlewoman from Maryland and the gentleman from Wisconsin and say how much I appreciate the gentlewoman from Maryland bringing up this very important issue.

I had a number of constituents who came to me and were indignant about the misinformation that was being put out in the national press and in many cases spread locally throughout the United States. You know, it is one of those things where there is so much misinformation, it is very difficult even for the Members, and many Members, I think, have taken a position before they really had an opportunity to hear both sides of this issue. So I appreciate the great work that the gentlewoman from Maryland [Mrs. BENTLEY] has done over the last few months in getting the correct information out to the American people, and I join her in hoping that we can get this thing straightened out so that the American people hear the right side of this very complicated issue.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for those remarks, and recognizing the fact that there are two sides to every story. I think that is very, very important in this. It has been a very, very one-sided presentation.

Mr. MOODY. If the gentlewoman will yield further, I would agree totally with my friend and colleague from Pennsylvania that the stiuation in Kosovo is complex and that there has not been an adequate description of both sides of this issue.

As the gentlewoman mentioned, I lived in Yugoslavia for 2 years. I lived in Belgrade, but I traveled through Kosovo, as well as Croatia, Slovenia, Serbia, Vojvodina, Montenegro Macedonia, and all other parts of Yugoslavia. I probably have spent more time in Yugoslavia than any Member in this body by quite a measure.

While I am not the world's expert on Yugoslavia, I can say that the level of misunderstanding and distortion of the facts has been truly monumental on this House floor of recent days.

I have been in Kosovo a number of times, most recently in April with the Helsinki Commission, with the gentleman from Maryland [Mr. HOYER], Senator DECONCINI, and the gentlewoman from Maryland.

Obviously it is complex, and obviously the situation is far from perfect on either side. No one is pretending that current official Serbian government policy is perfect. No one is pretending that the Albanians in Kosovo are totally wrong when they complain of official government action. They have some grievances, and they should be addressed. But, it is important to put a few facts on the record.

First, contrary to the constant statements that have recently been made in Congress, the Serbs living in Kosovo are not the majority. They are the tiny minority. It is not the Serbian majority persecuting the Albanian minority. It is the Serbian minority under incredible pressure in their own homeland and in the land which marks the cradle of their civilization. They are now less than 15 percent, probably around 12 percent, and some estimate down to 10 percent; 80 to 90 percent of the population in Kosovo is not Serbian but Albanian.

Mrs. BENTLEY. I think we need to point out that up until World War II that 50 percent of the population in Kosovo was Serbian, but during World War II they were moved out, and after World War II, Tito pushed them out because he wanted to make the Serbians suffer, because he did not agree with them, and he was afraid of them. He then moved the Albanians in there, and that is why the percentages have changed so much.

Mr. MOODY. If the gentlewoman will yield further, in fact, the policy of the Government of Yugoslavia under Tito was to not permit Serbs who had left Kosovo to move back to their homeland. Under Tito, if Serbs left Kosovo for any reason, for a job or for other reasons, they were not allowed to come back home. There was a systematic policy of the Government of Yugoslavia during the whole Tito period, 40-some years, to drain Kosovo of the Serbian population, remove them one way or another, and all sorts of incentives were presented to the Albanians to settle there.

We are not commenting on the propriety of that policy some years ago. All we are doing is trying to put the facts on the record that the Serbians are not the majority in Kosovo. They are the small minority in Kosovo, and they are under incredible pressure. As the gentlewoman will remember, when we were in Kosovo in April we heard testimony on all sides of the Serbian-Albanian issue, including testimony from the Serbian community that they had their graves desecrated, their churches burned, and their priests beat up. Those who carried out those irresponsible acts did not represent the entire Albanian community, but represented certain elements of the Albanian community. Thus it is a very misrepresented situation when people describe the Serbs persecuting the Albanians in Kosovo. That is No. 1.

Second, I would like to put on the record very clearly that the Albanians in Kosovo are not generally prevented from expressing themselves culturally, religiously, or in other ways. During the whole Tito period and subsequent-

ly, the Albanians have been able to practice their religion and were encouraged to do so. Most Members recognize that Yugosavia was not a Stalinist state in this period, and had a substantially milder form of communism. Mosques were built and kept up. Further, the Albanians were encouraged to speak their own language in all educational and official fora. I do not think that Members realize that in Kosovo the language in the courts, the langauge in the government, the language in the university, and the language on Radio Pristina is not Serbian. It is Albanian. It is the Serbs who are trying to figure out what is being said on the radio, what is being said in court, and what is being said in the classroom. Yes, there are some classes in Serbian in the university in Kosovo, but the predominance of the classes are in Albanian. It is the Serbs who are very much in the minority and struggling to try and stay and keep pace.

It is also important to point out that in Pristina, the capital of Kosovo, there is a parliament which is, I think, probably at least 90 percent Albanian in its makeup. No one is complaining about that. But it gives balance to the picture to point out that it is not as frequently depicted.

As the gentlewoman points out, it was only after this parliament, in the semiautonomous region of Kosovo, declared independence that they were suspended. We do agree or disagree with that action, but it does give some content. It is not some whimsical decision by the Serbs to suppress free expression.

Mr. MURTHA. If the gentlewoman will yield further, I am inserting in the RECORD an article by Alexander F.C. Webster, which appeared in the Washington Post on Tuesday, July 31. It says, "What the Media Have Missed in Eastern Europe." It goes on to explain some of the inconsistencies in the news media and just explains what all three of us have been trying to straighten out, so I want to associate myself with the gentleman from Wisconsin [Mr. MOODY] and the gentlewoman from Maryland [Mrs. BENTLEY] and my folks at home who are so upset because there is so much misinformation on this issue, so I appreciate what both of you have done in this very important issue.

[From the Washington Post, July 31, 1990]

WHAT THE MEDIA HAVE MISSED IN EASTERN EUROPE

(By Alexander F.C. Webster)

In media coverage of the reemergent ethinic conflicts in Eastern Europe, short shrift is usually given the predominantly Orthodox Romanians, Serbs, Bulgarians and Russians. This is due largely to an affinity of reporters and pundits for "Western" culture, meaning Western Europe and often only Northwestern Europe. These cultural blinders preclude recognition of the full range of Western civilization, which includes Byzantine political and religious culture too.

In each of the hot spots in the region, the warring ethnic communities are portrayed as either oppressors or victims. Commonly, the historical depth of this reportage goes back at most to the beginning of the 20th century, ignoring the complex historical causes of ethnic and religious conflicts.

In Romania, ethnic Romanians—the vast majority Orthodox—supposedly wear the black hats, while Hungarian-speaking citizens are their victims. The deposed Communist dictator, Nicolae Ceausescu, did focus much of his wrath on the Hungarian minority in the Transylvania region of Romania, prohibiting, for example, use of the Hungarian language in village schools and other public venues. The Latin-Rite Catholics, Reformed Protestants and Unitarians who constitute the majority of the ethnic Hungarians in Romania can testify to the religious persecution they endured.

But the Romanian-Hungarian conflict didn't begin with Ceausescu, or even with the incorporation of Transylvania into Romania in 1919. For centuries the Roman Catholic Hapsburg dynasty in Austria held sway in this region. After establishment of the "Dual Monarchy" in 1848, the Hungarian component of that empire assumed full local control. Its suppression of Romanian language and culture was thorough and ruthless. Forced Magyarization of indigenous Romanians preceded forced Romanianization of indigenous Hungarians by a century.

In Yugoslavia, that crazy-quilt of southern Slavdom, the embattled Serbs must confront a two-front war of propaganda. The leader of the Serbian Republic, Slobodan Milosevic, has emerged as the doctrinaire Communist and rabid nationalist whom Americans love to hate. As either a Serbian Stalin in the making or merely the latest tribal chieftain, he serves as a convenient stereotype of the entire Serbian nation.

Meanwhile, the Croats and Slovenes in the north, having inaugurated democratic reforms and poised themselves to declare their independence from the Yugoslav federation, turn longingly to the West. Their Catholic heritage and affinity for Western culture are too easily contrasted to the Serbs' historic Eastern Orthodoxy and centuries of supposed cultural retardation under the Turkish yoke. Slovenian and Croatian political moderation is often juxtaposed to alleged Serbian expansionism and hegemonism.

This caricature fails to acknowledge the Serbs' memory of their own wretched experience during World War II. When Nazi Germany conquered the recalcitrant Yugoslavs, German overlords propped up an independent Croatian national state. Atrocities committed against Serbs by the fascist Croatian Ustashi—including the murder of as many as 1 million out of a pre-war population of 8 million Serbs—rank the Serbian holocaust among the worst genocides in history. Have the Serbs and Croats simply exchanged black and white hats, or is there enough ugliness to go around?

Meanwhile, the Serbian minority in the Kosovo-Methohia region also has been placed unfairly in a bad light. The cradle of Serbian Orthodoxy, this region in recent decades has witnessed an extraordinary demographic shift. A high birthrate among the mostly Moslem Albanians and a mass exodus by Serbs have created an Albanian majority. According to Serbian Orthodox authorities, the Serbs have fled for their lives in the wake of repeated beatings, rapes and destruction of property administered by militant Albanian youths. This side of the story, however, rarely finds its way into the coverage of this exotic corner of Yugoslavia. Instead the American public is fed a steady diet of Albanian laments about injustices real or imagined.

Bulgaria was dominated by Ottoman Turks longer than any other Balkan nation. Naturally, this overwhelmingly Orthodox people retains vivid memories of centuries of Turkish oppression. When the new reformist government of Petar Mladenov granted civil rights to the Turkish minority, Bulgarian nationalists protested this democratic move, seeking to prevent the Turks from reverting to Turkish surnames or using the Turkish language in public. In this religious-ethnic squabble, Bulgarian nationalists come across as vengeful fanatics, which may, in fact, be an apt description. But the historical background of this anti-Turkish sentiment rarely gets a nod, much less equal time, from the American media.

Finally, the volatile Ukraine has received considerable attention of late, virtually all of it skewed in favor of the Ukrainian nationalists, particularly the renascent Ukrainian Catholic Church in the western part of this Soviet republic. Ironically, the 3 million to 5 million Ukrainian Catholics ("Uniates") constitute only a small fraction of the Ukraine's 50 million people, most of whom are Eastern Orthodox. But even the mist diligent news junkie in America would probably have no idea of these relative numbers.

Coverage of this conflict reaches back only to 1946, when Stalin liquidated the Uniate community and forcibly integrated it into the Russian Orthodox Church. But the animosity between Uniates and the Orthodox majority in the Ukraine actually dates back centuries to the Union of Brest in 1596. At that council, which met under Polish suzerainty, most of the Orthodox bishops in the Western Ukraine, but only a minority of the faithful, were arguably "enticed" into union with Rome by offers of political privileges and cultural benefits in the Catholic Polish state. Dissenters faithful to Orthodoxy were forcibly suppressed by Polish authorities.

Worse, the shameless shilling for Ukrainian nationalism in the press is often accompanied by an unconscionable bashing of all things Russian, including the Russian Orthodox Church. Not only has Russian nationalism become automatically associated with antisemitism but the Russians are also generally depicted as somehow sinister and congenitally imperialistic, while the Poles and Lithuanians—who ran roughshod over Russia in the 16th and 17th centuries—are supposed to be Moscow's perennial victims. Of course, in the popular mythology Russia represents the "backward" Orthodox East and Poland the "enlightened" Catholic West.

Certainly none of the foregoing should be construed as a justification for the more recent undemocratic villainy by some of these Orthodox peoples against their neighbors. But accuracy and fairness in reporting require a better grounding in history than the American media elites have heretofore demonstrated.

□ 2300

Mr. MOODY. Let me add a point to that if I could. It is also important to put on the record what the gentle-

woman from Maryland has alluded to. Namely, it is the Serbians who probably suffered more than any single group in Yugoslavia under the Nazis. It is the Serbians who probably suffered more than any single group under the Communist regime, at least under the Tito period when Tito had a conscious policy of pulling Serbia down to make it more equal with the other republics, because Serbians are the most numerous single minority in the country.

Mrs. BENTLEY. If the gentleman would yield 1 minute on that, I think we have to really emphasize that point, that in Eastern Europe and in Yugoslavia, that area in particular, it has been only the Serbians who were part of the Allies, who supported the Allies in World War I and World War II. They were the only ones.

All of the others were with the Nazis, with the Axis in World War II. The Albanians were with the Axis, the Croatians were with the Axis, and so forth. And in World War I the same story.

So I think we need to make that point, that it was the Serbians who have been the friends of the Allies, and it was the Serbians who supported the Jews, and who helped with the Jews during World War II when they were being persecuted and beaten up by the Nazis in Yugoslavia.

Mr. MOODY. If I may have a moment back, I would not say the Croatians were with the Nazis. Some few Croatians were with the Nazis. I am sure the majority of the Croatians were not.

Mrs. BENTLEY. The rest were partisans.

Mr. MOODY. I think it is important to make sure that that is clarified. The majority of the Croatians are freedom loving, democracy loving people who detested the Nazi and Fascist regimes. The Croatians are wonderful people, and would never willingly embrace fascism.

Mrs. BENTLEY. I agree.

Mr. MOODY. It was during the Ustashi takeover under Nazi and Mussolini control that in effect certain very unfortunate individuals in Croatia were able to take over and run it like a fascist state.

Mrs. BENTLEY. I thank the gentleman for making that point.

Mr. MOODY. The only point I am trying to make here is that the Serbs suffered under the Nazis tremendously because they were out and out occupied by them. There were whole villages in Serbia that were massacred in retaliation for acts of resistance. There are villages in Serbia where every single male inhabitant above the age of 6 or 7 was simply machinegunned down in the town square simply in retaliation. Not that others in Yugoslavia did not suffer under fascism, they did. But Serbia was out and out occupied in a way that was probably more onerous than some of the other parts of the country, and it did suffer tremendously.

As I said a minute ago, frankly, the Serbs suffered probably more under the Communist system of Mr. Tito than any other group because he had a conscious policy of reducing Serbia's influence and strength inside their federation of Yugoslavia because he feared the Serbs as being the single largest republic.

The gentlewoman from Maryland and I are not here today to criticize any group inside Yugoslavia—Albanian or Croatian, or any other. They are all wonderful people, as I know from living and working there 2 years. No one is here to criticize. But I think it is important to set the record straight about the Serbs and what happened to them in the past, how they have been misreported, and how they have been castigated unfairly in the press and by certain Members of Congress.

Press commentary would lead one to think that the Serbian people are somehow supporting communism and a hardline regime, when that is the opposite of what is true, at least from my experience of living in and later visiting that country. In fact, I think Serbia will have free elections, hopefully in the not too distant future. There have been demonstrations in Serbia calling for that already. Many Serbs see what has happened in Croatia and Albania, and recognize that it is new day dawning for democracy in Yugoslavia.

But quite frankly, it is a misunderstanding about the Kosovo situation, and the exploitation of that situation, that has actually made the whole situation more difficult, rather than easier, to resolve in Kosovo.

I appreciate the gentlewoman bringing it up tonight, and I agree with her comments a few moments ago that we are not asking for special consideration of the Serbs, or the Serbian government, tonight. We only ask the Serbs be held to the same human right standards as other groups or countries are being held to in Eastern Europe.

All of us want to see human rights in Kosovo. We want the Albanian minority to have their rights to speak and organize politically, but we also want the situation there to be reported correctly. To set straight the facts have been often misreported about that region.

Mrs. BENTLEY. Very true. I thank the gentleman from Wisconsin and also the gentleman from Pennsylvania for their remarks.

Mr. Speaker, I want to point out, before I close tonight, that 10 days ago there were several hundred Serbian-Americans from all parts of the United States who gathered here in Washington for a seminar sponsored by the American-Serbian Heritage Foundation, and joining in the group were the Serbian National Federation and representatives of a number of other groups.

They passed a couple of resolutions that I would like to read so that the record will be complete, and so everybody will understand exactly where the American-Serbians come from.

Whereas, the communist ruled countries of Eastern Europe have all had free, multiparty democratic elections with the exception of Albania, the last Stalinist outpost, during which the communist regimes have all been swept aside; and

Whereas, before all these recent democratic developments, the Serbian people were the first nation to break the yoke of Stalinist control in the Balkans and steadfastly have led the resistance to communist rule in Yugoslavia; and

Whereas the Serbian people should be commended for their heroic efforts but they now must continue their historic journey to establish a free and democratic society.

Now, therefore, the Serbian community gathered in Washington, D.C. during July 21-24, 1990 does hereby resolve:

1. That free democratic multi-party elections be schedueld as soon as possible in the Republic of Serbia, with a prior notice of at least four months so that the opposition parties will have adequate time to prepare.

That is very important, Mr. Speaker, because in many of these countries the opposition parties have not had time to prepare. It has been the same old story, with the Communists that changing their tightening and moving down the line.

2. That all parties have full legal standing and equality to campaign.

3. That all media must be accessible to all political parties without discrimination.

4. That all voters in Serbia should be able to support the party of their choice without threat of intimidation and must be guaranteed a free, peaceful democratic process.

The other one on human rights, Mr. Speaker, says:

Whereas, the people of the U.S. have rightly supported the pursuit of human rights wherever they have been oppressed or denied; and

Whereas, wherever the Serbian people live in Yugoslavia—some 40 percent live outside the borders of Serbia including the areas of Lika, Kordun and Banija, Croatia, the Republics of Macedonia and Bosnia-Herzegovina—and the region of Kosvo-Methija, the Serbs have been oppressed and denied their basic human rights; and

Whereas, the pursuit of human rights must not be pre-determined, for or against any groups, but should be promoted in all parts of Yugoslavia wherever any groups or individuals are denied their basic human rights.

Now, therefore, the Serbian community gathered in Washington, D.C. during July 21-24, 1990 do thereby resolve:

1. That the basic human rights of the Serbian people in Yugoslavia, wherever they live, must be supported and promoted by all democratic and peaceful means possible.

2. All basic human rights including economic, cultural and social as well as civil and political rights must be supported for all the Serbian people throughout Yugoslavia.

3. All other groups in Yugoslavia should be guaranteed human rights without discrimination.

Mr. Speaker, I want to point out that when this American-Serbian Congress was going on here in Washington, that a group of some 50 Albanians every day had banners up across from the White House in Jackson Place, Lafayette Square, which said, "Congresswoman BENTLEY, Stalinish Puppet."

Now, I find that rather offensive, but it just shows again the kind of people we are dealing with.

Mrs. VUCANOVICH. Mr. Speaker, having listened to both sides of this very volatile issue, what has been made very clear is that mistakes have been made on both sides. Yes, there has been violence in Kosovo, and yes, it has been brought on by Serbs and Albanians. Yes, the Republic of Serbia has instituted a state of emergency in Kosovo, suspending the free press. And, yes, people have had their freedoms taken from them in part or in full; some even have died.

But while this is not excusable, it can certainly be justified when we consider the cause of these problems, which is the ethnic Albanian population in Kosovo.

As an aside, I found it amusing to hear my colleagues praising Albania. This is rather ironic considering the fact that Albania is the last hardline Communist regime left in Eastern Europe.

But it is the Albanian population which has truly precipitated the tension in Kosovo. Contrary to what my colleague from California asserted last night, Kosovo is not the "Albanian ethnic province of Yugoslavia." Actually, Kosovo is the homeland of the Serbian peoples, and is to Serbia what Israel is to Jews. Serbians were living in Kosovo far before being invaded by waves of immigrant Albanians. Indeed, Serbians have defended their homeland for centuries; perhaps the most remarkable instance was in the battle of Kosovo Polje in 1389, when Serbians died trying to defend their homeland from the Turks, who subsequently occupied the territory for 500 years.

Mr. Speaker, it is not the Government of the Republic of Serbia whom we should be condemning. Instead, we must realize that so many problems which exist in Kosovo exist because of the overwhelming presence of ethnic Albanians.

But the fact is that the Albanians are there, and the Serbs are there, and they're not getting along. Nobody is really sure how peace can be brought to this tortured province. But I am positive that we can't help the people of Kosovo merely by censuring its government.

Instead of blaming other governments, our own must take positive steps toward resolving this problem. Mr. Speaker, I call upon my colleagues to consider carefully the history of Kosovo and the present situation, and to then formulate a reasoned opinion on what we can do to help.

GENERAL LEAVE

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on my special order.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland.

There was no objection.

CONFERENCE REPORT ON H.R. 7, THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS OF 1990

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995:

CONFERENCE REPORT (H. REPT. 101-660)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

(a) THIS ACT.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990".

(b) AMENDMENTS.—Section 1 of the Carl D. Perkins Vocational Education Act (in this Act referred to as the "Act") (20 U.S.C. 2301 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.
"Sec. 2. Statement of purpose.
"Sec. 3. Authorization of appropriations.
"TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES
"PART A—ALLOTMENT AND ALLOCATION
"Sec. 101. Allotment.
"Sec. 101A. The territories.
"Sec. 102. Within State allocation.
"Sec. 103. Indian and Hawaiian natives programs.
"PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES
"Sec. 111. State administration.
"Sec. 112. State council on vocational education.
"Sec. 113. State plan.
"Sec. 114. State plan approval.
"Sec. 115. State and local standards and measures.
"Sec. 116. State assessment and evaluation.
"Sec. 117. Program evaluation and improvement.
"Sec. 118. Criteria for services and activities for individuals who are members of special populations.
"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION
"PART A—STATE PROGRAMS
"Sec. 201. State programs and State leadership.
"PART B—OTHER STATE-ADMINISTERED PROGRAMS
"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias
"Sec. 221. Programs for single parents, displaced homemakers, and single pregnant women.
"Sec. 222. Sex equity programs.
"Sec. 223. Competitive award of amounts; evaluation of programs.
"Subpart 2—Corrections Education
"Sec. 225. Programs for criminal offenders.
"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS
"Subpart 1—Within State Allocation
"Sec. 231. Distribution of funds to secondary school programs.
"Sec. 232. Distribution of funds to postsecondary and adult programs.
"Sec. 233. Special rule for minimal allocation.
"Sec. 234. Reallocation.
"Subpart 2—Uses of Funds
"Sec. 235. Uses of funds.
"Subpart 3—Local Application
"Sec. 240. Local application.
"TITLE III—SPECIAL PROGRAMS
"PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS
"Sec. 301. Applications.
"Sec. 302. Uses of funds.
"PART B—CONSUMER AND HOMEMAKING EDUCATION
"Sec. 311. Consumer and homemaking education grants.
"Sec. 312. Use of funds from consumer and homemaking education grants.
"Sec. 313. Information dissemination and leadership.
"PART C—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS
"Sec. 321. Grants for career guidance and counseling.
"Sec. 322. Use of funds from career guidance and counseling grants.
"Sec. 323. Information dissemination and leadership.
"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING
"Sec. 331. Findings and purpose.
"Sec. 332. Authorization of grants.
"Sec. 333. Use of funds.
"PART E—TECH-PREP EDUCATION
"Sec. 341. Short title.
"Sec. 342. Findings and purpose.
"Sec. 343. Program authorized.
"Sec. 344. Tech-prep education programs.
"Sec. 345. Applications.
"Sec. 346. Reports.
"Sec. 347. Definitions.
"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES
"Sec. 351. Statement of purpose.

"Sec. 352. Allotment to States.
"Sec. 353. Allocation to local educational agencies.
"Sec. 354. Uses of funds.
"Sec. 355. State applications.
"Sec. 356. Local applications.
"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS
"Subpart 1—Community Education Employment Centers
"Sec. 361. Short title.
"Sec. 362. Purpose.
"Sec. 363. Program authorized.
"Sec. 364. Program requirements.
"Sec. 365. Support services requirements.
"Sec. 366. Parental and community participation.
"Sec. 367. Professional staff.
"Sec. 368. Eligibility.
"Sec. 369. Application.
"Sec. 370. Evaluation and report.
"Sec. 371. Definitions.
"Subpart 2—Vocational Education Lighthouse Schools
"Sec. 375. Vocational education lighthouse schools.
"PART H—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS
"Sec. 381. Short title.
"Sec. 382. Purpose.
"Sec. 383. Grants authorized.
"Sec. 384. Eligible grant recipients.
"Sec. 385. Grants to tribally controlled postsecondary vocational institutions.
"Sec. 386. Amounts of grants.
"Sec. 387. Effect on other programs.
"Sec. 388. Grant adjustments.
"Sec. 389. Report on facilities and facilities improvement.
"Sec. 390. Definitions.
"TITLE IV—NATIONAL PROGRAMS
"PART A—RESEARCH AND DEVELOPMENT
"Sec. 401. Research objectives.
"Sec. 402. Research activities.
"Sec. 403. National assessment of vocational education programs.
"Sec. 404. National Center or Centers for Research in Vocational Education.
"PART B—DEMONSTRATION PROGRAMS
"Sec. 411. Programs authorized.
"Sec. 412. Materials development in telecommunications.
"Sec. 413. Demonstration centers for the training of dislocated workers.
"Sec. 414. Professional development.
"Sec. 415. Blue ribbon vocational education programs.
"Sec. 416. Development of business and education standards.
"Sec. 417. Educational programs for Federal correctional institutions.
"Sec. 418. Dropout prevention.
"Sec. 419. Model programs of regional training for skilled trades.
"Sec. 420. Demonstration projects for the integration of vocational and academic learning.
"Sec. 420A. Cooperative Demonstration Programs.
"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS
"Sec. 421. Data systems authorized.
"Sec. 422. National Occupational Information Coordinating Committee.
"Sec. 423. Information base for vocational education data system.
"Sec. 424. Miscellaneous provisions.
"PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION
"Sec. 431. Council established.
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"Sec. 441. Program authorized.
"PART F—GENERAL PROVISIONS
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"TITLE V—GENERAL PROVISIONS
"PART A—FEDERAL ADMINISTRATIVE PROVISIONS
"Sec. 501. Payments.
"Sec. 502. Maintenance of effort.
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"Sec. 505. Requirements relating to reports, plans, and regulations.
"Sec. 506. Federal laws guaranteeing civil rights.
"Sec. 507. Student assistance and other Federal programs.
"Sec. 508. Federal monitoring.
"PART B—STATE ADMINISTRATIVE PROVISIONS
"Sec. 511. Joint funding.
"Sec. 512. Review of regulations.
"Sec. 513. Identification of State-imposed requirements.
"Sec. 514. Prohibition on use of funds to induce out-of-State relocation of businesses.
"Sec. 515. State administrative costs.
"Sec. 516. Additional administrative requirements.
"PART C—DEFINITIONS
"Sec. 521. Definitions.".

SEC. 2. STATEMENT OF PURPOSE.

Section 2 of the Act (20 U.S.C. 2301) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Act (20 U.S.C. 2302) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $1,600,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III, and IV of this Act.

"(b) TITLE I.—(1) Of the amounts remaining from amounts made available under subsection (a) after providing amounts for the programs described in paragraph (2) and subsections (d) and (f)—

"(A) 1.5 percent shall be available to carry out the provisions of section 103, relating to Indian and Hawaiian natives programs; and

"(B) .2 percent shall be available to carry out the provisions of section 101A, relating to the territories.

"(2) Of the amounts made available in the fiscal year 1991 under subsection (a), not more than $9,000,000 shall be available to carry out the provisions of section 112, relating to State councils on vocational education.

"(c) BASIC PROGRAMS.—Of the amounts remaining from amounts made available under subsection (a) after providing amounts for the programs described in subsections (b)(2), (d), and (f), 95.8 percent shall be available to carry out the provisions of title II, relating to basic programs.

"(d) SPECIAL PROGRAMS.—(1) Subject to paragraph (2), of the amounts made available under subsection (a) for the fiscal year 1991—

"(A) not more than $15,000,000 shall be available to carry out the provisions of part A of title III, relating to State assistance for vocational education support programs by community-based organizations;

"(B) not more than $38,500,000 shall be available to carry out the provisions of part B of title III, relating to consumer and homemaking education;

"(C) not more than $20,000,000 shall be available to carry out the provisions of part C of title III, relating to comprehensive career guidance and counseling programs;

"(D) not more than $10,000,000 shall be available to carry out the provisions of part D of title III, relating to business-labor-education partnerships;

"(E) not more than $125,000,000 shall be available to carry out the provisions of part E of title III, relating to tech-prep education;

"(F) not more than $100,000,000 shall be available to carry out the provisions of part F of title III, relating to supplementary State grants for facilities and equipment and other program improvement activities;

"(G) not more than $10,000,000 shall be available to carry out the provisions of part G of title III, of which—

"(i) an amount equal to 75 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 1 of such part, relating to community education employment centers; and

"(ii) an amount equal to 25 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 2 of such part, relating to vocational education lighthouse schools; and

"(H) not more than $4,000,000 shall be available to carry out the provisions of part H of title III, relating to tribally controlled postsecondary vocational institutions.

"(2) Notwithstanding the provisions of paragraph (1), amounts shall be available to carry out the provisions of part C, D, or G of title III in any fiscal year only to the extent that the amount available for such fiscal year to carry out the provisions of title II exceeds $1,000,000,000.

"(e) NATIONAL PROGRAMS.—For each fiscal year, of the amounts remaining from amounts available pursuant to subsection (a) after providing amounts for the programs described in subsections (b)(2), (d), and (f), 2.5 percent of such remainder shall be available to carry out the provisions of title IV (other than parts D and E), relating to national programs.

"(f) OTHER NATIONAL PROGRAMS.—(1) Of amounts made available under subsection (a) for the fiscal year 1991, not more than $350,000 shall be available to carry out the provisions of part D of title IV, relating to the National Council on Vocational Education.

"(2) Of amounts made available under subsection (a) for the fiscal year 1991, not more than $10,000,000 shall be available to carry out the provisions of part E of title IV, relating to bilingual vocational training programs.".

SEC. 4. INTERDEPARTMENTAL TASK FORCE ON COORDINATION OF VOCATIONAL EDUCATION AND RELATED PROGRAMS.

(a) ESTABLISHMENT.—There is established the Interdepartmental Task Force on Vocational Education and Related Programs (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) DUTIES.—The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act;

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(d) REPORT TO CONGRESS.—The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress.

SEC. 5. JOINT FUNDING.

(a) JOB TRAINING PARTNERSHIP ACT.—(1) Section 123 of the Job Training Partnership Act (29 U.S.C. 1533) is amended by adding at the end the following new subsection:

"(e)(1) Sums available for this section pursuant to section 202(b)(1) may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this section;

"(C) such program provides services in a coordinated manner with services provided under this section; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(2) Section 204 of the Job Training Partnership Act (29 U.S.C. 1604) is amended—

(A) by inserting "(a)" after "SEC. 204."; and

(B) by adding at the end the following new subsection:

"(b)(1) Funds provided under this title may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(3) Section 314 of the Job Training Partnership Act (29 U.S.C. 1661c) is amended by adding at the end the following new subsection:

"(g) JOINT FUNDING.—(1) Funds allotted under section 302 may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(b) WAGNER-PEYSER ACT.—Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Funds made available to States under this section may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this Act;

"(C) such program provides services in a coordinated manner with services provided under this Act; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) Section 123, title II, and title III of the Job Training Partnership Act.".

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

SEC. 101. ALLOTMENT.

(a) IN GENERAL.—Section 101 of the Act (20 U.S.C. 2311) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) In each fiscal year, of the amounts remaining from amounts made available under section 3(a) after providing amounts for the programs described in subsections (b)(2), (d), and (f) of section 3, the Secretary shall reserve—

"(A) 2.5 percent for the activities described in title IV (other than parts D and E);

"(B) 1.5 percent for the purpose of carrying out section 103, of which—

"(i) 1.25 percent shall be for the purpose of carrying out section 103(b); and

"(ii) .25 percent shall be for the purpose of carrying out section 103(c); and

"(C) .2 percent for the purpose of carrying out section 101A.";

(B) in paragraph (3)—

(i) in clause (i) of subparagraph (B)—

(I) by striking "subparagraph (A)" and inserting "subparagraphs (A), (C), and (D)"; and

(II) by striking "(D), or (E)" each place it appears and inserting "or (D)";

(ii) by amending subparagraph (C) to read as follows:

"(C) In the case of the Virgin Islands, the minimum allotment for all programs under this Act shall not be less than $200,000.".

(iii) by adding at the end the following:

"(D)(i) Subject to clause (iii), no State shall, by reason of subparagraph (B), be allotted more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year; and

"(II) the amount calculated under clause (ii).

"(ii) The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(iii) Notwithstanding the provisions of clauses (i) and (ii), no State shall be allotted an amount under this section in any fiscal year that is less than the amount such State is allotted in the fiscal year 1991.";

(2) in subparagraph (B) of subsection (c)(1), by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place such phrase appears and inserting "and the Virgin Islands"; and

(3) by adding at the end the following:

"(d) For the purpose of this section, the term 'State' means any 1 of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.".

(b) THE TERRITORIES.—Part A of title I of the Act (20 U.S.C. 2311 et seq.) is amended by inserting after section 101 the following:

"SEC. 101A. THE TERRITORIES.

"(a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory to make grants for vocational education and training in Guam, American Samoa, Palau, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative programs involving both

secondary schools and institutions of higher education.

"(c) LIMITATION.—The Center for the Advancement of Pacific Education may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 102. WITHIN STATE ALLOCATION.

Section 102 of the Act (20 U.S.C. 2312) is amended to read as follows:

"SEC. 102. WITHIN STATE ALLOCATION.

"(a) PROGRAMS OTHER THAN STATE GRANTS.—From the allotment made to each State from funds appropriated under section 3(a) for each fiscal year—

"(1) an amount equal to at least 75 percent of the allotment shall be available only for basic programs under part C of title II;

"(2) an amount equal to 10.5 percent of the allotment shall be available only for the program for single parents, displaced homemakers, and single pregnant women described in section 221 and the sex equity program described in section 222, of which—

"(A) not less than 7 percent of such allotment shall be reserved for the program for single parents, displaced homemakers, and single pregnant women; and

"(B) not less than 3 percent of such allotment shall be reserved for the sex equity program;

"(3) an amount equal to not more than 8.5 percent of the allotment shall be available only for State programs and activities described in section 201;

"(4) the State may use for administration of the State plan an amount that does not exceed 5 percent of the allotment or $250,000, whichever is greater, of which—

"(A) not less than $60,000 shall be available only for purposes of carrying out the provisions of section 111(b)(1); and

"(B) remaining amounts may be used for the costs of—

"(i) developing the State plan;

"(ii) reviewing local applications;

"(iii) monitoring and evaluating program effectiveness;

"(iv) providing technical assistance; and

"(v) assuring compliance with all applicable Federal laws, including required services and activities for individuals who are members of special populations; and

"(5) an amount equal to 1 percent of the allotment shall be available only for programs for criminal offenders under section 225.

"(b) MATCHING REQUIREMENT.—Each State receiving financial assistance under this Act shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(4).

"(c) HOLD HARMLESS PROVISION.—(1) Except as provided in paragraph (2) and notwithstanding the provisions of subsection (a), each State shall reserve for the program for single parents, displaced homemakers, and single pregnant women under section 221, the sex equity program under section 222, and the program for criminal offenders under section 225, respectively, an amount that is not less than the amount such State reserved for each such program in the fiscal year 1990.

"(2) In any year in which a State receives an amount for purposes of carrying out programs under title II that is less than the amount such State received for such purposes in the fiscal year 1990, such State shall ratably reduce the amounts reserved under paragraph (1).".

SEC. 103. INDIAN AND HAWAIIAN NATIVES PROGRAMS.

Paragraph (1) of section 103(b) of the Act (20 U.S.C. 2313) is amended to read as follows:

"(1)(A) From the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed—

"(i) upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934; or

"(ii) upon an application received from a Bureau funded school (as such term is defined in section 1139(3) of the Education Amendments of 1978) offering secondary programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any tribal organization of any such Indian tribe or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by and consistent with the purposes of this Act, except that—

"(I) such grants or contracts with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence; and

"(II) such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

"(B)(i) Any tribal organization or school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such tribal organization or school.

"(ii) In the case of a Bureau funded school, the minimum amount of a grant made under this section shall be $35,000.

"(C) The Secretary may not place upon grants made or contracts entered into under this paragraph any restrictions relating to programs or outcomes other than restrictions which apply to grants made to or contracts entered into with States under section 101. The Secretary, in making grants under this paragraph, shall give special consideration to—

"(i) grants which involve, coordinate with, or encourage tribal economic development plans; and

"(ii) applications from tribally controlled community colleges which—

"(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

"(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.".

PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

SEC. 111. STATE ADMINISTRATION.

Section 111 of the Act (20 U.S.C. 2321) is amended—

(1) in subsection (a)(1)(A), by striking "113(b)(9)" and inserting "113(b)(8), section 116, and section 117";

(2) in subsection (a)(1)(C), by inserting ", including business, industry, and labor," before "involved";

(3) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) by striking "201(f)" and inserting "221"; and

(ii) by striking "201(g)" and inserting 222";

(B) by redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively;

(C) by striking "and" at the end of subparagraph (F) (as redesignated by subparagraph (B) of this paragraph);

(D) by striking the period at the end of subparagraph (G) (as redesignated by subparagraph (B) of this paragraph) and inserting a semicolon; and

(E) by inserting after subparagraph (B) the following:

"(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies, area vocational education schools, intermediate educational agencies, and postsecondary educational institutions to ensure that the needs of women and men for training in nontraditional jobs are met;"; and

(F) by adding at the end the following:

"(I) developing an annual plan for the use of all funds available for such programs;

"(J) managing the distribution of funds pursuant to section 223;

"(K) monitoring the use of funds distributed to recipients under such programs; and

"(L) evaluating the effectiveness of programs and activities supported by such funds.";

(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(4)(A)" before "expend";

(5) by striking subsection (e);

(6) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and

(7) by inserting the following new subsections after subsection (b):

"(c) REVIEW OF PLANS WITH RESPECT TO STUDENTS WITH HANDICAPS.—(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to review the implementation of the provisions of this Act as such provisions relate to students with handicaps by reviewing all or a representative sample of plans of eligible recipients to—

"(A) assure that individuals with handicaps are receiving vocational educational services;

"(B) assure that the plans of the eligible recipient provide assurances of compliance with the provisions of section 504 of the Rehabilitation Act of 1973 and the Education of Handicapped Act regarding equal access to programs; and

"(C) assure that the eligible recipients have—

"(i) identified the number of students with handicaps enrolled in vocational programs operated by the eligible recipient;

"(ii) assessed the vocational needs of the students identified pursuant to clause (i); and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students.

"(2) For purposes of this subsection and subsections (d) and (e), the term 'State' means any 1 of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) NEEDS OF ECONOMICALLY DISADVANTAGED STUDENTS.—Any State desiring to par-

ticipate in the programs authorized by this Act shall assign the head of the State office or other appropriate individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to review all or a representative sample of plans of the eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) NEEDS OF STUDENTS OF LIMITED ENGLISH PROFICIENCY.—Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office or other appropriate individual responsible for administering programs for students of limited English proficiency to review all or a representative sample of the plans of the eligible recipients to ensure the numbers of students of limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans.".

SEC. 112. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act (20 U.S.C. 2322) is amended—

(1) in subsection (a)(1)(A), by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2), by striking the period at the end and inserting "and may include members of vocational student organizations and school board members.";

(3) in subsection (a), by inserting the following new sentence at the end of the matter following paragraph (2): "No employee of the State board shall serve on the State council.";

(4) in subsection (d)(2), by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) before subparagraph (B) (as redesignated by subparagraph (B) of this paragraph):

"(A) the State plan;";

(5) in subsection (d)(8), by—

(A) striking "the individuals described in section 201(b)" and inserting "individuals who are members of special populations"; and

(B) striking "and" at the end;

(6) by striking subsection (d)(9) and inserting the following new paragraphs:

"(9) analyze and review corrections education programs; and

"(10)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment, and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State;

"(ii) the vocational education program delivery system assisted under this Act, and the job training program delivery system assisted under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the 2 Acts; and

"(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action in implementing the State plan;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.";

(7) in subsection (e) by inserting the following new sentences at the end: "Each State council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State plan.";

(8) by amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 3(c), the Secretary shall first make grants of $150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth in section 101(a)(2) of this Act, provided that—

"(i) no State council shall receive more than $250,000 for each fiscal year;

"(ii) no State council shall receive less than $150,000 for each fiscal year; and

"(iii) no State council shall receive less than such State council was allotted in the fiscal year 1990;"; and

(9) by amending subsection (f)(1)(B) to read as follows:

"(B) From the sums appropriated pursuant to section 3(c) for each fiscal year, the Secretary shall make grants of—

"(i) $60,000 to each of the State councils of the Virgin Islands and Guam; and

"(ii) $25,000 to each of the State councils of American Samoa, Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658), and the Commonwealth of the Northern Mariana Islands.".

SEC. 113. STATE PLAN.

Section 113 of the Act (20 U.S.C. 2323) is amended to read as follows:

"SEC. 113. STATE PLAN.

"(a) IN GENERAL.—(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a 3-year period, in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by subparagraph (A) shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto), the State board shall meet with and utilize the State council established pursuant to section 112.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct an assessment according to section 116. Such assessment shall include analysis of—

"(A) the relative academic, occupational, training, and retraining needs of secondary, adult, and postsecondary students; and

"(B) the capability of vocational education programs to provide vocational education students, to the extent practicable, with—

"(i) strong experience in and understanding of all aspects of the industry the students are preparing to enter (including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues); and

"(ii) strong development and use of problem-solving skills and basic and advanced academic skills (including skills in the areas of mathematics, reading, writing, science, and social studies) in a technological setting.

"(b) CONTENTS.—Each State plan shall—

"(1) describe the procedures and the results of each of the assessments required by section 116(a), including the needs identified by such assessments; and

"(2) describe how uses of funds reflect the needs described in paragraph (1);

"(3) provide assurances that, and where necessary a description of the manner in which, eligible recipients will comply with the requirements of titles I and II, including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for individuals who are members of special populations and a description of the responsiveness of such programs to the special needs of such students;

"(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of individuals who are members of special populations;

"(C) assurances that the State board will conduct adequate monitoring of programs conducted by eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals who are members of special populations who are enrolled in private secondary schools, provision is made for the participation of such individuals in the vocational education programs assisted under section 231;

"(4) describe the estimated distribution of funds to corrections educational agencies as prescribed by section 225, the estimated distribution of funds to local educational agencies, area vocational education schools, or intermediate educational agencies as prescribed by section 231, and the planned estimated distribution of funds to eligible institutions as prescribed by section 232;

"(5) provide assurances that the State will comply with the provisions of section 102, including assurances that the State will distribute not less than 75 percent of the funds made available for title II to eligible recipients pursuant to such title;

"(6) describe the criteria the State board will use—

"(A) in approving applications of eligible recipients; and

"(B) for spending the amounts reserved for the State under paragraphs (2) through (5) of section 102(a);

"(7) describe how funds expended for occupationally specific training will be used for occupations in which job openings are projected or available, based on a labor market analysis;

"(8) provide assurances that the State will develop and implement a system of stand-

ards for performance and measures of performance for vocational education programs at the State level that meets the requirements of section 115;

"(9) describe, in each State plan submitted after the fiscal year 1991, the progress the State has made in achieving the goals described in previous State plans;

"(10) provide such methods of administration as are necessary for the prompt and efficient administration of programs under this Act;

"(11) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 221, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(12) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(13) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 117;

"(14) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship programs;

"(15) provide assurances that programs of personnel development and curriculum development shall be funded to further the goals identified in the State plan;

"(16) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(17) provide assurances that the State board will cooperate with the State council in carrying out the Board's duties under this part;

"(18) provide assurances that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(19) provide assurances that State and local funds will be used in the schools of each local educational agency that are receiving funds under this Act to provide services which, taken as a whole, are at least comparable to services being provided in schools in such agency which are not receiving such funds;

"(20)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

"(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career guidance and vocational counseling from allotments under title II are not less than such expenditures for such guidance and counseling within the State in the fiscal year 1988;

"(21) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

"(22) provide procedures by which an area vocational education school, intermediate educational agency, or local educational agency may appeal decisions adverse to its interests with respect to programs assisted under this Act; and

"(23) describe how the State will comply with the provisions of section 118.

"(c) AMENDMENTS TO STATE PLAN.—When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council and the State council.".

SEC. 114. STATE PLAN APPROVAL.

Section 114 of the Act (20 U.S.C. 2324) is amended to read as follows:

"SEC. 114. STATE PLAN APPROVAL

"(a) In General.—The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, tech-prep education, and secondary education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational education, and the State agency responsible for secondary education. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult, and postsecondary students, and shall include the State's rationale for distribution of funds. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Time for Submission; Approval.—Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted, if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing program evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act on a regular basis. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.".

SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

Section 115 of the Act (20 U.S.C. 2325) is amended to read as follows:

"SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

"(a) GENERAL AUTHORITY.—Each State board receiving funds under this Act shall develop and implement a statewide system of core standards and measures of performance for secondary and postsecondary vocational education programs. Each State board receiving funds under this Act, before the expiration of the 30-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, shall appoint the State Committee of Practitioners (in this section referred to as the 'Committee') as prescribed by section 512(a) after consulting with local school officials representing eligible recipients, and representatives of organized labor, business, superintendents, community-based organizations, private industry councils established under section 102(a) of the Job Training Partnership Act, State councils, parents, special populations, correctional institutions, the administrator appointed under section 111(b)(1), the State administrator of programs assisted under part B of the Education of the Handicapped Act, the State administrator of programs assisted under chapter 1 of title I of the Elementary and Secondary Education Act, the State administrator of programs for students of limited English proficiency, and guidance counselors. Such system shall be developed and implemented before the end of the 2-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 and shall apply to all programs assisted under this Act. Eligible recipients may make local modifications to such system based on economic, geographic, or demographic factors, or the characteristics of the population to be served. Such modifications shall conform to the assessment criteria contained in the State plan. The State board shall convene the Committee on a regular basis to review, comment on, and propose revisions to a draft State proposal, which the State board shall develop, for a system of core standards and measures of performance for vocational programs.

"(b) REQUIREMENTS.—Each system developed under subsection (a) shall include—

"(1) measures of learning and competency gains, including student progress in the achievement of basic and more advanced academic skills;

"(2) 1 or more measures of performance, which shall include only—

"(A) competency attainment;

"(B) job or work skill attainment or enhancement including student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in the industry the student is preparing to enter;

"(C) retention in school or completion of secondary school or its equivalent; and

"(D) placement into additional training or education, military service, or employment;

"(3) incentives or adjustments that are—

"(A) designed to encourage service to targeted groups or special populations; and

"(B) for each student, consistent with the student's individualized education program developed under section 614(a)(5) of the Education of the Handicapped Act, where appropriate; and

"(4) procedures for using existing resources and methods developed in other programs receiving Federal assistance.

"(c) CONSISTENCY WITH OTHER PROGRAMS.—In developing the standards and measures included in a system developed under subsection (a), the State board shall take into consideration—

"(1) standards and measures developed under job opportunities and basic skills training programs established and operated under a plan approved by the Secretary of Health and Human Services that meets the requirements of section 402(a)(19) of the Social Security Act; and

"(2) standards prescribed by the Secretary of Labor under section 106 of the Job Training Partnership Act.

"(d) INFORMATION PROVIDED BY STATE BOARD.—(1) The Committee shall make recommendations to the State board with respect to modifying standards and measures to be used under this section, based on the information provided under paragraph (2).

"(2) To assist the Committee in formulating recommendations under paragraph (1), the State board shall provide to the Committee information concerning differing types of standards and measurement, including—

"(A) the advantages and disadvantages of each type of standard or measurement;

"(B) instances in which such standards and measures have been effective; and

"(C) instances in which such standards and measures have not been effective.

"(3) In the event that the State board does not accept the Committee's recommendations made as required by paragraph (1), the State board shall set forth in the State plan its reasons for not accepting such recommendations.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States with respect to the development of systems under subsection (a). In providing such assistance, the Secretary shall utilize existing resources in other Federal agencies.

"(f) REPORT.—The Secretary shall submit a report to the appropriate committees of the Congress not later than the expiration of the 4-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such report shall include—

"(1) a detailed description of the status of each State's system of standards and measures developed as required by this section;

"(2) an assessment of the validity, predictiveness, and reliability of such standards and measures, unbiased to special populations, in the areas of academic achievement, vocational skill competencies, employment outcomes, and postsecondary continuation and attainment; and

"(3) an evaluation of the comparability of State-developed performance standards across States to establish a core of common indicators.".

SEC. 116. STATE ASSESSMENT AND EVALUATION.

Part B of title I of the Act (20 U.S.C. 2321 et seq.) is amended by adding at the end the following:

"SEC. 116. STATE ASSESSMENT.

"(a) IN GENERAL.—Each State board receiving assistance under this Act shall conduct an assessment using measurable objective criteria developed by the State board to assess program quality. Such criteria shall be developed in consultation with representatives of the groups described in section 115(a) and shall use information gathered by the National Occupational Information Coordinating Committee and, if appropriate, other information. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later than the beginning of the 1991-1992 school year. Such criteria shall include such factors as—

"(1) integration of academic and vocational education;

"(2) sequential course of study leading to both academic and occupational competencies;

"(3) increased student work skill attainment and job placement;

"(4) increased linkages between secondary and postsecondary educational institutions;

"(5) instruction and experience, to the extent practicable, in all aspects of the industry the students are preparing to enter;

"(6) the ability of the eligible recipients to meet the needs of special populations with respect to vocational education;

"(7) raising the quality of vocational education programs in schools with high concentrations of poor and low-achieving students;

"(8) the relevance of programs to the workplace and to the occupations for which students are to be trained, and the extent to which such programs reflect a realistic assessment of current and future labor market needs, including needs in areas of emerging technologies;

"(9) the ability of the vocational curriculum, equipment, and instructional materials to meet the demands of the work force;

"(10) basic and higher order current and future workplace competencies which will reflect the hiring needs of employers; and

"(11) other factors considered appropriate by the State board.

"(b) DEADLINE FOR ASSESSMENT.—Each State board shall complete the assessment required by subsection (a) before the expiration of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

"SEC. 117. PROGRAM EVALUATION AND IMPROVEMENT.

"(a) ANNUAL EVALUATION.—Each recipient of financial assistance under part C of title II shall annually evaluate the effectiveness of the program conducted with assistance under this Act based on the standards and measures (or modifications thereto) developed as required by section 115. As part of each such evaluation, each such recipient shall—

"(1) review programs, with the full and informed participation of representatives of individuals who are members of special populations, to—

"(A) identify and adopt strategies to overcome any barriers which are resulting in lower rates of access to vocational education programs or success in such programs for individuals who are members of special populations; and

"(B) evaluate the progress of individuals who are members of special populations in vocational education programs assisted under this Act; and

"(2) evaluate the progress of vocational education programs assisted under this Act in providing vocational education students with strong experience in and understanding of all aspects of the industry the students are preparing to enter.

"(b) LOCAL PROGRAM IMPROVEMENT PLAN.—Beginning not less than 1 year after the implementation of the provisions of section 115, if any recipient described in subsection (a) determines that the recipient is not making substantial progress in meeting the standards and measures developed as required by section 115, such recipient shall develop a plan, in consultation with teachers, parents, and students concerned, for program improvement for the succeeding school year. Such plan shall describe how the recipient will identify and modify programs funded under part C of title II, including—

"(1) a description of vocational education and career development strategies designed to achieve progress in improving the effectiveness of the program conducted with assistance under this Act; and

"(2) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(c) STATE AND LOCAL JOINT PLAN.—If, after 1 year of implementation of the plan described in subsection (b), sufficient progress in meeting the standards and measures developed as required by section 115 has not been made, the State shall work jointly with the recipient and teachers, parents, and students concerned to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the eligible recipient;

"(2) a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(d) FURTHER ACTION.—The State shall, in conjunction with the eligible recipient, annually review and revise the joint plan developed under subsection (c) in order to improve performance and will continue to do so each consecutive year until the recipient sustains, for more than 1 year, fulfillment of the State and local standards and measures developed under section 115.

"SEC. 118. CRITERIA FOR SERVICES AND ACTIVITIES FOR INDIVIDUALS WHO ARE MEMBERS OF SPECIAL POPULATIONS.

"(a) ASSURANCES OF EQUAL ACCESS FOR MEMBERS OF SPECIAL POPULATIONS.—The State board, in its State plan, shall provide assurances that—

"(1) individuals who are members of special populations will be provided with equal access to recruitment, enrollment, and placement activities;

"(2) individuals who are members of special populations will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and, to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis of their status as members of special populations;

"(3)(A) vocational education programs and activities for individuals with handicaps will be provided in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act and will, whenever appropriate, be included as a component of the individualized education program developed under section 614(a)(5) of such Act;

"(B) students with handicaps who have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act shall, with re-

spect to vocational education programs, be afforded the rights and protections guaranteed such students under sections 612, 614, and 615 of such Act;

"(C) students with handicaps who do not have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act or who are not eligible to have such a program shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under section 504 of the Rehabilitation Act of 1973 and, for the purpose of this Act, such rights and protections shall include making vocational education programs readily accessible to eligible individuals with disabilities through the provision of services described in subsection (c)(3);

"(D) vocational education planning for individuals with handicaps will be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies; and

"(E) the provision of vocational education to each student with handicaps will be monitored to determine if such education is consistent with the individualized education program developed for such student under section 614(a)(5) of the Education of the Handicapped Act, in any case in which such a program exists;

"(4) the provision of vocational education will be monitored to ensure that disadvantaged students and students of limited English proficiency have access to such education in the most integrated setting possible; and

"(5)(A) the requirements of this Act relating to individuals who are members of special populations—

"(i) will be carried out under the general supervision of individuals in the appropriate State educational agency or State board who are responsible for students who are members of special populations; and

"(ii) will meet education standards of the State educational agency or State board; and

"(B) with respect to students with handicaps, the supervision carried out under subparagraph (A) shall be carried out consistent with and in conjunction with supervision by the State educational agency or State board carried out under section 612(6) of the Education of the Handicapped Act.

"(b) PROVISION OF INFORMATION.—(1) Each local educational agency shall provide to students who are members of special populations and parents of such students at least 1 year before the students enter or are of an appropriate age for the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, information concerning—

"(A) the opportunities available in vocational education;

"(B) the requirements for eligibility for enrollment in such vocational education programs;

"(C) specific courses that are available;

"(D) special services that are available;

"(E) employment opportunities; and

"(F) placement.

"(2) Each eligible institution that receives assistance under title II shall provide the information described in paragraph (1) to each individual who requests information concerning or seeks admission to vocational education programs offered by the institution, and, when appropriate, assist in the preparation of applications relating to such admission.

"(3) The information provided under this subsection shall, to the extent practicable, be in a language and form that the parents and students understand.

"(c) ASSURANCES.—Each eligible recipient that receives assistance under title II shall provide assurances that such eligible recipient shall—

"(1) assist students who are members of special populations to enter vocational education programs, and, with respect to students with handicaps, assist in fulfilling the transitional service requirements of section 626 of the Education of the Handicapped Act;

"(2) assess the special needs of students participating in programs receiving assistance under title II with respect to their successful completion of the vocational education program in the most integrated setting possible;

"(3) provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps—

"(A) curriculum modification;

"(B) equipment modification;

"(C) classroom modification;

"(D) supportive personnel; and

"(E) instructional aids and devices;

"(4) provide guidance, counseling, and career development activities conducted by professionally trained counselors and teachers who are associated with the provision of such special services; and

"(5) provide counseling and instructional services designed to facilitate the transition from school to post-school employment and career opportunities.

"(d) PARTICIPATORY PLANNING.—The State board shall—

"(1) establish effective procedures, including an expedited appeals procedure, by which parents, students, teachers, and area residents concerned will be able to directly participate in State and local decisions that influence the character of programs under this Act affecting their interests; and

"(2) provide technical assistance and design such procedures to ensure that such individuals are given access to the information needed to use such procedures.".

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"SEC. 201. STATE PROGRAMS AND STATE LEADERSHIP.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 102(a)(3), each State shall conduct State programs and State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The programs and activities described in subsection (a) shall include—

"(1) professional development activities for vocational teachers and academic teachers working with vocational education students, including corrections educators and counselors, and educators and counselors in community-based organizations, including inservice and preservice training of teachers in state-of-the-art programs and techniques, including integration of vocational and academic curricula, with particular emphasis on inservice and preservice training of minority teachers;

"(2) development, dissemination, and field testing of curricula, especially—

"(A) curricula that integrate vocational and academic methodologies; and

"(B) curricula that provide a coherent sequence of courses through which academic and occupational skills may be measured; and

"(3) assessment of programs conducted with assistance under this Act, including the development of—

"(A) performance standards and measures for such programs; and

"(B) program improvement and accountability with respect to such programs.

"(c) AUTHORIZED ACTIVITIES.—The programs and activities described in subsection (a) may include—

"(1) the promotion of partnerships among business, education (including educational agencies), industry, labor, community-based organizations, or governmental agencies;

"(2) the support for tech-prep education as described in section 344;

"(3) the support of vocational student organizations, especially with respect to efforts to increase minority participation in such organizations;

"(4) leadership and instructional programs in technology education; and

"(5) data collection.

"PART B—OTHER STATE-ADMINISTERED PROGRAMS

"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias

"SEC. 221. PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN.

"(a) GENERAL AUTHORITY.—Each State shall use the amount reserved under section 102(a)(2)(A) only to—

"(1) provide, subsidize, reimburse, or pay for preparatory services, including instruction in basic academic and occupational skills, necessary educational materials, and career guidance and counseling services, in preparation for vocational education and training that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

"(2) make grants to eligible recipients for expanding preparatory services and vocational education services when the expansion directly increases the eligible recipients' capacity for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of preparatory and vocational education services to single parents, displaced homemakers, and single pregnant women if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training, and the characteristics of the participants;

"(4) make preparatory services and vocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by assisting such individuals with dependent care, transportation services, or special services and supplies, books, and materials, or by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs, related support services, and career counseling.

"(b) SETTINGS.—The programs and services described in subsection (A) may be provided in postsecondary or secondary school settings, including area vocational education schools, that serve single parents, displaced homemakers, and single pregnant women.

"SEC. 222. SEX EQUITY PROGRAMS.

"(a) GENERAL AUTHORITY.—Except as provided in subsection (b), each State shall use the amount reserved under section 102(a)(2)(B) only for—

"(1) programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) preparatory services and vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2), including dependent-care services and transportation.

"(b) WAIVER OF AGE LIMIT.—The administrator appointed under section 111(b)(1) may waive the requirement with respect to age limitations contained in subsection (a)(2) whenever the administrator determines that the waiver is essential to meet the objectives of this section.

"SEC. 223. COMPETITIVE AWARD OF AMOUNTS; EVALUATION OF PROGRAMS.

"The administrator appointed under section 111(b)(1)—

"(1) shall, on a competitive basis, allocate and distribute to eligible recipients or community-based organizations the amounts reserved under section 102(a)(2) for carrying out this subpart, ensuring that each grant made under this subpart is for a program that is of sufficient size, scope, and quality to be effective; and

"(2) shall develop procedures for the collection from eligible recipients, including community-based organizations, that receive funds under this subpart of data appropriate to the individuals served in order to permit evaluation of the effectiveness of such programs as required by section 111(b)(1)(L).

"Subpart 2—Corrections Education

"SEC. 225. PROGRAMS FOR CRIMINAL OFFENDERS.

"(a) DESIGNATION OF STATE CORRECTIONS EDUCATIONAL AGENCY.—(1) Each State board shall designate 1 or more State corrections agencies as State corrections educational agencies to administer vocational education programs assisted under this Act for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.

"(2) Any corrections agency that desires to be designated under paragraph (1) shall submit to the State board a plan for the use of funds provided to such corrections agency from the amounts reserved by the State under section 102(a)(5).

"(b) DUTIES OF STATE CORRECTIONS EDUCATIONAL AGENCY.—In administering programs receiving funds under this section, each State corrections educational agency designated under subsection (a) shall, in carrying out a vocational education program for criminal offenders—

"(1) give special consideration to—

"(A) providing services to offenders who are completing their sentences and preparing for release; and

"(B) providing grants for the establishment of vocational education programs in correctional institutions that do not have such programs;

"(2) provide vocational education programs for women who are incarcerated;

"(3) improve equipment; and

"(4) in cooperation with eligible recipients, administer and coordinate vocational education services to offenders before and after their release.

"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

"Subpart 1—Within-State Allocation

"SEC. 231. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

"(a) GENERAL RULE.—Except as otherwise provided in this section and section 233, each State shall distribute funds available in any fiscal year for secondary school vocational education programs to local educational agencies within the State as follows:

"(1) From 70 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1005 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

"(2) From 20 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with handicaps who have individualized education programs under section 614(a)(5) of the Education of the Handicapped Act served by such local educational agency in the preceding fiscal year bears to the total number of such students served by local educational agencies in the State in such year.

"(3) From 10 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency in the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State in such year.

"(b) MINIMUM GRANT AMOUNT.—(1) Except as provided in paragraph (2), no local educational agency shall be eligible for a grant under this part unless the amount allocated to such agency under subsection (a) is not less than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum grant requirement of this paragraph.

"(2) The State may waive the application of paragraph (1) in any case in which the local educational agency—

"(A) is located in a rural, sparsely-populated area; and

"(B) demonstrates that the agency is unable to enter into a consortium for purposes of providing services under this part.

"(3) Any amounts which are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or paragraph (2) in accordance with the provisions of this section.

"(c) LIMITED JURISDICTION AGENCIES.—(1) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

"(2) The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND INTERMEDIATE EDUCATIONAL AGENCIES.—(1) The State shall distribute funds available for secondary school vocational education programs to the appropriate area vocational education school or intermediate educational agency in any case in which—

"(A) the area vocational education school or intermediate educational agency and the local educational agency concerned—

"(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

"(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

"(B)(i) the area vocational education school or intermediate educational agency serves an approximately equal or greater proportion of students with handicaps and students who are economically disadvantaged than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the intermediate educational agency; or

"(ii) the area vocational education school, intermediate educational agency, or local educational agency demonstrates that it is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area school or intermediate educational agency.

"(2) If an area vocational education school or intermediate educational agency meets the requirements of paragraph (1), then—

"(A) the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational education school, the intermediate educational agency, and the local educational agency based on each school's or entity's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs that meet the requirements of section 235 (based, if practicable, on the average enrollment for the prior 3 years); or

"(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or intermediate educational agency.

"(3)(A) For the purposes of this subsection, the State may determine the number of economically disadvantaged students attending vocational education programs on the basis of eligibility for any of the following:

"(i) Free or reduced-price meals under the National School Lunch Act.

"(ii) The program for aid to dependent children under part A of title IV of the Social Security Act.

"(iii) Benefits under the Food Stamp Act of 1977.

"(iv) Services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(v) Other indices of economic status including estimates of such indices, if the State demonstrates to the satisfaction of the Secretary that such indices are more representative of such number.

"(B) If a State elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the State shall ensure that the data used is not duplicative.

"(4) The State board shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an intermediate educational agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

"(5) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) any local educational agency receiving an allocation which is not sufficient to conduct a program which meets the requirements of section 235(c) is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area vocational education school or intermediate educational agency offering programs that meet the requirements of section 235(c) and that are accessible to economically disadvantaged students and students with handicaps served by such local educational agency; and

"(B) transfer such allocation to the area vocational education school or intermediate educational agency.

"SEC. 232. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

"(a) GENERAL RULE.—Except as provided in subsection (b) and section 233, each State shall distribute funds available in any fiscal year for postsecondary and adult vocational education programs to eligible institutions within the State. Each such eligible institution shall receive an amount that bears the same relationship to the amount of funds available under such section as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 235 offered by such institution in the preceding fiscal year bears to the number of such recipients enrolled in such programs within the State in such year.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) in the case of any State that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the institutions within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution; and

"(2) includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions within the State who—

"(A) receive need-based postsecondary financial aid provided from public funds;

"(B) are members of families participating in the program for aid to families with dependent children under part A of title IV of the Social Security Act;

"(C) are enrolled in postsecondary educational institutions that—

"(i) are funded by the State;

"(ii) do not charge tuition; and

"(iii) serve only economically disadvantaged students;

"(D) are enrolled in programs serving economically disadvantaged adults;

"(E) are participants in programs assisted under the Job Training Partnership act; or

"(F) are recipients of Pell Grants.

"(c) MINIMUM GRANT AMOUNT.—(1) No grant provided to any institution under this section shall be for an amount that is less than $50,000.

"(2) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to eligible institutions in accordance with the provisions of this section.

"(d) DEFINITION.—For the purposes of this section—

"(1) the term 'eligible institution' means an institution of higher education, a local educational agency serving adults, or an area vocational education school serving adults that offers or will offer a program that meets the requirements of section 235 and seeks to receive assistance under this part;

"(2) the term 'institution of higher education' has the meaning given that term in section 435(b) of the Higher Education Act of 1965; and

"(3) the term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965.

"SEC. 233. SPECIAL RULE FOR MINIMAL ALLOCATION.

"(a) GENERAL AUTHORITY.—In any fiscal year in which a minimal amount is made available by a State for distribution under section 231 or section 232 such State may, notwithstanding the provisions of section 231 or section 232, as appropriate, in order to result in a more equitable distribution of funds for programs serving the highest numbers of economically disadvantaged individuals, distribute such minimal amount—

"(1) on a competitive basis; or

"(2) through any alternative method determined by the State.

"(b) MINIMAL AMOUNT.—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made available for distribution under this part.

"SEC. 234. REALLOCATION.

"(a) IN GENERAL.—In any academic year that a local educational agency or eligible institution does not expend all of the amounts it is allocated for such year under section 231 or section 232, such local educational agency or eligible institution shall return any unexpended amounts to the State to be reallocated under section 231 or section 232, as appropriate.

"(b) REALLOCATION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the State under sections 231 or 232 and the State is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the State shall retain such amounts to be distributed in combination with amounts provided under this title for the following academic year.

"Subpart 2—Uses of Funds

"SEC. 235. USES OF FUNDS.

"(a) GENERAL AUTHORITY.—Each eligible recipient that receives a grant under this part shall use funds provided under such grant to improve vocational education programs, with the full participation of individuals who are members of special populations, at a limited number of sites or with respect to a limited number of program areas.

"(b) PRIORITY.—Each eligible recipient that receives a grant under this part shall give priority for assistance under this part to sites or programs that serve the highest concentrations of individuals who are members of special populations.

"(c) REQUIREMENTS FOR USES OF FUNDS.—(1) Funds made available under a grant under this part shall be used to provide vocational education in programs that—

"(A) are of such size, scope, and quality as to be effective;

"(B) integrate academic and vocational education in such programs through coherent sequences of courses so that students achieve both academic and occupational competencies; and

"(C) provide equitable participation in such programs for the special populations consistent with the assurances and requirements in section 118.

"(2) In carrying out the provisions of paragraph (1), grant funds may be used for activities such as—

"(A) upgrading of curriculum;

"(B) purchase of equipment, including instructional aids;

"(C) inservice training of both vocational instructors and academic instructors working with vocational education students for integrating academic and vocational education;

"(D) guidance and counseling;

"(E) remedial courses;

"(F) adaptation of equipment;

"(G) tech-prep education programs;

"(H) supplementary services designed to meet the needs of special populations;

"(I) a special populations coordinator paid in whole or in part from such funds who shall be a qualified counselor or teacher to ensure that individuals who are members of special populations are receiving adequate services and job skill training;

"(J) apprenticeship programs;

"(K) programs that are strongly tied to economic development efforts in the State;

"(L) programs which train adults and students for all aspects of the occupation, in which job openings are projected or available;

"(M) comprehensive mentor programs in institutions of higher education offering comprehensive programs in teacher preparation, which seek to fully use the skills and work experience of individuals currently or formerly employed in business and industry who are interested in becoming classroom instructors and to meet the need of vocational educators who wish to upgrade their teaching competencies;

"(N) provision of education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, employers, labor organizations, and joint labor-management apprenticeship programs whenever such institutions, employers, labor organizations, or programs can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(3) Equipment purchases pursuant to sections 231 and 232, when not being used to carry out the provisions of this Act, may be used for other instructional purposes if—

"(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this title;

"(B) is used after regular school hours or on weekends; and

"(C) such other use is—

"(i) incidental to the use of that equipment under this title;

"(ii) does not interfere with the use of that equipment under this title; and

"(iii) does not add to the cost of using that equipment under this title.

"(4) Each eligible recipient receiving funds under this part shall use no more than 5 percent of such funds for administrative costs.

"Subpart 3—Local Application

"SEC. 240. LOCAL APPLICATION.

"Any eligible recipient desiring financial assistance under this part shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded, including—

"(A) the extent to which the program incorporates each of the elements described in section 235;

"(B) how the eligible recipient will use the funds available under this part and from other resources to improve the program with regard to each use of funds described in section 235;

"(2) contain a report on the number of individuals in each of the special populations;

"(3) contain a description of how the needs of individuals who are members of special populations will be assessed and a description of the planned use of funds to meet such needs;

"(4) describe how access to programs of good quality will be provided to students who are economically disadvantaged (including foster children), students with handicaps, and students of limited English proficiency through affirmative outreach and recruitment efforts;

"(5) provide assurances that the programs funded under this part shall be carried out according to the criteria for programs for each special population;

"(6) describe the program evaluation standards the applicant will use to measure its progress;

"(7) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under section 102(a) of such Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(8) describe methods used to develop vocational educational programs in consultation with parents and students of special populations;

"(9) provide a description of coordination with community-based organizations;

"(10) consider the demonstrated occupational needs of the area in assisting programs funded by this Act;

"(11) provide a description of how the eligible recipient will provide a vocational education program that—

"(A) integrates academic and occupational disciplines so that students participating in the program are able to achieve both academic and occupational competence; and

"(B) offers coherent sequences of courses leading to a job skill;

"(12) provide assurances that the eligible recipient will provide a vocational education program that—

"(A) encourages students through counseling to pursue such coherent sequences of courses;

"(B) assists students who are economically disadvantaged, students of limited English proficiency, and students with handicaps to succeed through supportive services such as counseling, English-language instruction, child care, and special aids;

"(C) is of such size, scope, and quality as to bring about improvement in the quality of education offered by the school; and

"(D) seeks to cooperate with the sex equity program carried out under section 222;

"(13) provide an assurance that the eligible recipient will provide sufficient information to the State to enable the State to comply with the provisions of section 231(d); and

"(14) describe how the eligible recipient will monitor the provision of vocational education to individuals who are members of special populations.".

TITLE III—SPECIAL PROGRAMS

SEC. 301. USE OF FUNDS.

Section 302(b) of the Act (20 U.S.C. 2352(b)) is amended by—

(1) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;".

SEC. 302. CONSUMER AND HOMEMAKING EDUCATION.

Paragraph (2) of section 311 of the Act (20 U.S.C. 2361) is amended by inserting "individual and family health," after "food and nutrition,".

SEC. 303. USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS.

Section 312 of the Act (20 U.S.C. 2362) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "in" and inserting "for residents of"; and

(B) in paragraph (3), by inserting after "encourage" the following: ", in cooperation with the individual appointed under section 111(b)(1),";

(2) in paragraph (1) of subsection (b)—

(A) by striking "managing home and work responsibilities" and inserting "balancing work and family";

(B) by inserting after "family crises" the following: "(including family violence and child abuse)";

(C) by inserting after "parenting skills" the following: "(especially among teenage parents), preventing teenage pregnancy";

(D) by striking "handicapped individuals," and inserting "individuals with handicaps, and members of at-risk populations (including the homeless),"; and

(E) by striking "improving nutrition," and inserting "improving individual, child, and family nutrition and wellness,".

SEC. 304. INFORMATION DISSEMINATION AND LEADERSHIP.

The second sentence of subsection (a) of section 313 of the Act (20 U.S.C. 2363) is amended—

(1) by inserting after "State leadership" the following: "and full time State administrators"; and

(2) by inserting "educational" after "experience and".

SEC. 305. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

Part C of title III of the Act (20 U.S.C. 2371 et seq.) is repealed.

SEC. 306. COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part D as part C.

(2) Sections 331, 332, and 333 of the Act (20 U.S.C. 2381, 2382, 2383) are redesignated as sections 321, 322, and 323, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated in subsection (a)(1)) is redesignated as the heading to part C.

(c) USE OF FUNDS FROM CAREER GUIDANCE AND COUNSELING GRANTS.—Section 322 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2382) is amended in paragraph (2) of subsection (b), by inserting after "equipment acquisition," the following: "development of career information delivery systems,".

SEC. 307. BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part E as part D.

(2) Sections 341, 342, and 343 of the Act (20 U.S.C. 2391, 2392, 2393) are redesignated as sections 331, 332, and 333, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated by subsection (a)(1)) is amended to read as follows:

"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING".

(c) FINDINGS AND PURPOSE.—Section 331 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2391) is amended to read as follows:

"SEC. 331. FINDINGS AND PURPOSE.

"The Congress finds that—

"(1) there is a need to infuse resources into the schools for the purpose of improving the quality of vocational education; and

"(2) there is a need to fulfill the needs of business for skilled employees who meet certain minimal standards in key occupational areas.".

(d) AUTHORIZATION OF GRANTS.—Section 332 of the Act (as redesignated by subsection (a)(2) (20 U.S.C. 2392) is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) From amounts authorized under section 3(d)(1)(D) that are made available for this part, the Secretary shall make grants to States to enable States to award grants to partnerships among—

"(A) an area vocational education school, a State agency, a local educational agency, a secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State corrections educational agency or an adult learning center; and

"(B) business, industry, labor organizations, or apprenticeship programs;

to carry out business-labor-education partnership training programs in accordance with this part.

"(2) The Secretary shall ensure an equitable geographic distribution of grants under this part.";

(2) by amending subsection (b) to read as follows:

"(b) Grants to any State under this part shall be used in accordance with State plans and shall provide incentives for the coordination of programs assisted with funds under this part with related efforts under part E and under the Job Training Partnership Act. Each such State plan shall contain assurances to the Secretary that—

"(1) funds received under this part will be awarded on a competitive basis solely for vocational education programs, including programs—

"(A) to provide apprenticeships and internships in industry;

"(B) to provide new equipment;

"(C) to provide teacher internships or teacher training;

"(D) that bring representatives of business and organized labor into the classroom;

"(E) to increase the access to, and quality of, programs for individuals who are members of special populations;

"(F) to strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(G) to address the economic development needs of the area served by the partnership;

"(H) to provide training and career counseling that will enable workers to retain their jobs;

"(I) to provide training and career counseling that will enable workers to upgrade their jobs; and

"(J) that address the needs of new and emerging industries, particularly industries in high-technology fields.

"(2) the State will give preference to partnerships that coordinate with local chambers of commerce (or the equivalent), local labor organizations, or local economic development plans;

"(3) the State will give priority to programs offered by partnerships that provide job training in areas or skills where there are significant labor shortages;

"(4) the State shall ensure an equitable distribution of assistance under this part between urban and rural areas;

"(5) except as provided in paragraph (6), not less than 50 percent of the aggregate cost of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 percent of such non-Federal share will be provided by businesses or labor organizations participating in the partnership; and

"(6) in the event that the partnership includes a small business or labor organization, 40 percent of the aggregate cost of the programs and projects assisted under this part will be provided from non-Federal sources and not less than 50 percent of such non-Federal share will be provided by participating businesses or labor organizations."; and

(3) by adding at the end the following new subsection:

"(d) The Secretary shall prescribe policies for vocational education programs carried out with assistance under this part. Such policies shall include examples of allowable expenses for business-labor-education partnerships.".

SEC. 308. TECH-PREP EDUCATION.

Title III of the Act (20 U.S.C. 2351 et seq.) is amended by adding at the end the following new part:

"PART E—TECH-PREP EDUCATION

"SEC. 341. SHORT TITLE.

"This part may be cited as the 'Tech-Prep Education Act'.

"SEC. 342. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the work force;

"(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

"(3) a combination of nontraditional school-to-work technical education programs, using state-of-the-art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

"(4) the establishment of systematic technical education articulation agreements between secondary schools and postsecondary educational institutions is necessary for providing youths with skills in the liberal and practical arts and in basic academics, including literacy instruction in the English language, and with the intense technical preparation necessary for finding a position in a changing workplace;

"(5) by the year 2000 an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

"(6) more than 50 percent of jobs that are developing will require skills greater than those provided by existing educational programs;

"(7) dropout rates in urban schools are 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school; and

"(8) employers in the United States pay an estimated $210,000,000,000 annually for formal and informal training, remediation, and lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the work force of the United States.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to provide planning and demonstration grants to consortia of local educational agencies and postsecondary educational institutions, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate; and

"(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and postsecondary educational institutions.

"SEC. 343. PROGRAM AUTHORIZED.

"(a) DISCRETIONARY AMOUNTS.—In any fiscal year in which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part is equal to or less than $50,000,000, the Secretary, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants for tech-prep education programs to consortia of—

"(1) local educational agencies, intermediate educational agencies or area vocational education schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs; and

"(2)(A) nonprofit institutions of higher education which offer a 2-year associate degree program, a 2-year certificate program, and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978, or a 2-year apprenticeship program that follows secondary instruction, if such nonprofit institutions of higher education are not subject to a default management plan required by the Secretary; or

"(B) proprietary institutions of higher education which offer a 2-year associate degree program and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 if such proprietary institutions of higher education are not subject to a default management plan required by the Secretary.

"(b) STATE GRANTS.—(1) In any fiscal year for which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part exceeds $50,000,000, the Secretary shall allot such amount to the States in accordance with the provisions of section 101(a)(2).

"(2) From amounts made available to each State under paragraph (1), the State board, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants on a competitive basis or on the basis of a formula determined by the State board, for tech-prep education programs to consortia described in subsection (a)(1).

"SEC. 344. TECH-PREP EDUCATION PROGRAMS.

"(a) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

"(b) CONTENTS OF PROGRAM.—Any such program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field;

"(3) include the development of tech-prep education program curricula appropriate to the needs of the consortium participants;

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to effectively implement tech-prep education curricula;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in weekend, evening, and summer sessions, institutes or workshops;

"(5) include training programs for counselors designed to enable counselors to more effectively—

"(A) recruit students for tech-prep education programs;

"(B) ensure that such students successfully complete such programs; and

"(C) ensure that such students are placed in appropriate employment;

"(6) provide equal access to the full range of technical preparation programs to individuals who are members of special populations, including the development of tech-prep education program services appropriate to the needs of such individuals; and

"(7) provide for preparatory services which assist all participants in such programs.

"(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such program may—

"(1) provide for the acquisition of tech-prep education program equipment; and

"(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established, and operated tech-prep programs.

"SEC. 345. APPLICATIONS.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this part shall submit an application to the Secretary or the State board, as appropriate, at such

time and in such manner as the Secretary or the State board, as appropriate, shall prescribe.

"(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this part.

"(c) APPROVAL.—The Secretary or the State board, as appropriate, shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 344.

"(d) SPECIAL CONSIDERATION.—The Secretary or the State board, as appropriate, shall give special consideration to applications which—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs;

"(2) are developed in consultation with business, industry, and labor unions; and

"(3) address effectively the issues of dropout prevention and re-entry and the needs of minority youths, youths of limited English proficiency, youths with handicaps, and disadvantaged youths.

"(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In making grants under this part, the Secretary shall ensure an equitable distribution of assistance among States and the Secretary or the State board, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

"(f) NOTICE.—(1) In the case of grants to be made by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

"(2) The Secretary shall notify the State educational agency, the State agency for higher education, and the State council on vocational education of any State each time a consortium located in such State is selected to receive a grant under this part.

"SEC. 346. REPORTS.

"(a) REPORT TO THE SECRETARY.—In the case of grants made by the Secretary, each grant recipient shall, with respect to assistance received under this part, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this part.

"(b) REPORT TO THE CONGRESS.—After grant recipients who receive grants in the first year in which grants are made under this part complete their eligibility under the program, the Secretary shall submit to the Congress a report evaluating the effectiveness of the program under this part.

"SEC. 347. DEFINITIONS.

"For purposes of this part:

"(1) The term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

"(2) The term 'community college'—

"(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled community colleges.

"(3) The term 'tech-prep education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree or 2-year certificate;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

"(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

"(D) leads to placement in employment.

"(4) The terms 'institution of higher education' and 'higher education' include institutions offering apprenticeship programs of at least 2 years beyond the completion of secondary school.".

SEC. 309. SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES.

Title III of the Act (as amended by section 308 of this Act) (20 U.S.C. 2351 et seq.) is further amended by adding at the end the following new part:

"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

"SEC. 351. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide funding to local educational agencies in economically depressed areas for program improvement activities, especially the improvement of facilities and acquisition or leasing of equipment to be used to carry out vocational education programs that receive assistance under this Act.

"SEC. 352. ALLOTMENT TO STATES.

"In each fiscal year, from any amounts appropriated for purposes of carrying out this part, the Secretary shall allot to each State an amount which bears the same ratio to such appropriated amounts as the aggregate amount allocated to counties in such State for such fiscal year under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the total amount appropriated for carrying out such section for such fiscal year.

"SEC. 353. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION OF ALL GRANT AMOUNTS.—In each fiscal year for which a State receives a grant under this part, the State shall distribute not less than 100 percent of the amounts made available under the grant to eligible local educational agencies as provided in subsection (b).

"(b) GRANT AMOUNTS.—In each fiscal year for which a State receives a grant under this part, each eligible local educational agency or consortium of such agencies in the State shall receive an amount under this part that bears the same relationship to the amount received by such local educational agency or agencies under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the aggregate amount received by local educational agencies in such State under such section in such fiscal year.

"SEC. 354. USES OF FUNDS.

"Each local educational agency or consortium of such agencies that receives a grant under this part shall——

"(1) give first priority to using funds provided under the grant for improving facilities and acquiring or leasing equipment for carrying out vocational education programs that receive assistance under this Act; and

"(2) then may use any funds not required to carry out the provisions of paragraph (1) for other program improvement activities, such as curriculum development or teacher training.

"SEC. 355. STATE APPLICATIONS.

"(a) IN GENERAL.—Each State that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) designate the sole State agency described in section 111(a)(1) as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) provide for a process of consultation with the State council established under section 112;

"(3) describes how funds will be allocated in a manner consistent with section 353;

"(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part;

"(5) provide that the State educational agency will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and

"(6) contain assurances that the State will comply with the requirements of this part.

"(b) PERIOD OF APPLICATION.—An application submitted by the State under subsection (a) shall be for a period of not more than 3 years and shall be amended annually.

"SEC. 356. LOCAL APPLICATIONS.

"Each local educational agency or consortium of such agencies that desires to receive a grant under this part shall submit to the State an application at such time, in such manner, and containing or accompanied by such information as the State may reasonably require.".

SEC. 310. COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

Title III of the Act (as amended by sections 308 and 309 of this Act) is further amended by inserting at the end the following:

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"Subpart 1—Community Education Employment Centers

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1990'.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to enable such eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions; and

"(3) employment, including military service.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants to eligible recipients having applications approved pursuant to section 369 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extent possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into 1 or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemtstry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities;

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students; and

"(10) offer school-to-work transition services.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not adversely affect academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (in this part referred to as the 'Council') consisting of 1 individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State council on vocational education and the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations;

"(G) parents; and

"(H) the appropriate private industry council.

"(b) FUNCTIONS OF THE COUNCIL.—The Council shall provide recommendations to, and work with, eligible recipients to—

"(1) establish annual community education employment center priorities, programs, and procedures;

"(2) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

"(3) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(4) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(5) assist in the selection and application of assessment tools for continuous evaluation of student learning progress;

"(6) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment; and

"(7) make recommendations regarding the coordination of activities assisted under this part with activities assisted under the Job Training Partnership Act and school to work transitions.

"SEC. 367. PROFESSIONAL STAFF.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY.

"An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves 1 or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965; and

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

"(2) describe the activities and services for which assistance is sought;

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368;

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary schools in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 370. EVALUATION AND REPORT.

"(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student, and community participation in the activities of the community employment education center.

"(b) REPORT.—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) not later than October 1, 1995.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

"Subpart 2—Vocational Education Lighthouse Schools

"SEC. 375. VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to secondary schools and area vocational education schools to enable such schools to establish and operate vocational education lighthouse schools.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

"(F) which offers a full range of programs, including comprehensive career guidance and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training, and assistance, through off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) technical assistance and staff development, as appropriate;

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education training needs and career counseling needs of minority students, disadvantaged students, students with handicaps, and students of limited English proficiency; and

"(B) to reduce and eliminate sex bias and stereotyping.".

SEC. 311. VOCATIONAL EDUCATION OPPORTUNITIES FOR INDIANS AND ALASKA NATIVES.

Title III of the Act (as amended by sections 308, 309, and 310 of this Act) (20 U.S.C. 2351) is further amended by adding at the end the following new part:

"PART H—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS

"SEC. 381. SHORT TITLE.

"This part may be cited as the 'Tribally Controlled Vocational Institutions Support Act of 1990'.

"SEC. 382. PURPOSE.

"It is the purpose of this part to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

"SEC. 383. GRANTS AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational institutions to provide basic support for the education and training of Indian students.

"(b) USE OF GRANTS.—Amounts made available under grants made pursuant to this section may be used for—

"(1) training costs;

"(2) educational costs;

"(3) equipment costs;

"(4) administrative costs; and

"(5) costs of operation and maintenance of the institution.

"SEC. 384. ELIGIBLE GRANT RECIPIENTS.

"To be eligible for assistance under this part a tribally controlled postsecondary vocational institution shall—

"(1) be governed by a board of directors or trustees, a majority of whom are Indians;

"(2) demonstrate adherence to stated goals, a philosophy or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs which are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

"(3) have been in operation for at least 3 years;

"(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

"(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

"SEC. 385. GRANTS TO TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

"(a) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this part shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this part which will allow the Secretary to audit and monitor programs.

"(b) INITIAL GRANTS.—In the first year for which amounts are appropriated to carry out this part, the number of grants issued shall be not less than 2.

"(c) CONSULTATION.—In making grants pursuant to this part, the Secretary shall, to the extent practicable, consult with the boards of trustees and the tribal governments chartering the institutions being considered.

"(d) LIMITATION.—Amounts made available under grants made pursuant to this part shall not be used in connection with religious worship or sectarian instruction.

"SEC. 386. AMOUNT OF GRANTS.

"(a) ALLOWABLE EXPENSES.—Except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

"(1) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contributions to the costs of education for dependents);

"(2) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(3) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(b) PAYMENTS.—(1) For each fiscal year, the Secretary shall provide amounts to institutions that are approved for grants under section 385 in 2 payments.

"(2)(A) The first payment shall be made before the end of the 30-day period beginning on the date of the enactment of an Act providing appropriations for such fiscal year for purposes of carrying out this part. Except as provided in subparagraph (B), such payment shall be in an amount that is equal to at least 50 percent of the amount determined to be required under subsection (a) for the preceding year.

"(B) In the first year that an institution receives a grant under this part, the Secretary shall determine the amount of the first payment by estimating the costs described in subsection (a) based upon information submitted by the institution.

"(3) Each institution that receives a grant under section 385 shall receive a final payment of amounts to which it is entitled based on its costs under subsection (a) not

later than January 1 of the fiscal year in which the costs are incurred.

"(c) ACCOUNTING.—Each institution receiving payments under this part shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

"(d) ADDITIONAL GRANTS AUTHORIZED.—(1) After providing grants to all eligible institutions under subsection (a), the Secretary shall, from any amounts remaining—

"(A) first allocate to institutions receiving their first grant under this part an amount equal to the training equipment costs necessary to implement training programs; and

"(B) from any remaining funds, review training equipment needs at each institution receiving assistance under this part at the end of the 5-year period beginning on the first day of the first year for which the institution received a grant under this part, and provide allocations for other training equipment needs if it is demonstrated by the institution that its training equipment has become obsolete for its purposes, or that the development of other training programs is appropriate.

"(2) For the purposes of carrying out this subsection, the Secretary may require from each institution the submission of such information relating to the feasibility of such training programs as is reasonable and practical.

"SEC. 387. EFFECT ON OTHER PROGRAMS.

"(a) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this part shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education or vocational education.

"(b) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this part shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921.

"(c) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

"SEC. 388. GRANT ADJUSTMENTS.

"(a) ALLOCATION.—(1) If the sums appropriated for any fiscal year for grants under this part are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this part for such fiscal year, the Secretary shall first allocate to each such applicant which received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

"(2) For purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this part.

"(b) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this part, in consideration of employment needs, economic development needs, population training needs, prepare an actual budget needs estimate for each institution eligible under this part for each subsequent program year, and submit such budget needs estimate to the Congress in such a timely manner as will enable the appropriate committees of the Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions.

"SEC. 389. REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.

"(a) STUDY OF TRAINING AND HOUSING NEEDS.—(1) The Secretary shall conduct a detailed study of the training and housing needs of each institution eligible under this part.

"(2) The study required by paragraph (1) shall include an examination of—

"(A) training equipment needs; and

"(B) housing needs of families whose heads of household are students and whose dependents have no alternate source of support while such heads of household are students.

"(3) The Secretary shall report to the Congress not later than July 1, 1991, on the results of the study required by paragraph (1).

"(4) The report required by paragraph (3) shall—

"(A) include the number, type, and cost of meeting the needs described in paragraph (2); and

"(B) rank each institution by relative need.

"(5) In conducting the study required by paragraph (1), the Secretary shall give priority to institutions which are receiving assistance under this part.

"(b) LONG-TERM STUDY OF FACILITIES.—(1) The Secretary shall provide for the conduct of a long-term study of facilities of each institution eligible for assistance under this part.

"(2) The study required by paragraph (1) shall include a 5-year projection of training facilities and equipment and housing needs and shall consider such factors as projected service population, employment and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

"(3) The Secretary shall submit to the Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of the enactment of this Act.

"(4) The Secretary shall submit to the Congress a progress report not less often than once every 6 months, beginning on the date of the enactment of this Act, concerning activities conducted pursuant to this section.

"(c) CONSTRUCTION AND RENOVATION GRANTS.—Pursuant to the studies conducted and the report submitted under subsections (a) and (b), the Secretary is authorized to make grants to the tribally controlled vocational institutions for construction, rehabilitation, major alterations and renovation of buildings and other physical structures for the conduct of programs funded under this part. Such grants shall be made in such time and pursuant to such applications as the Secretary shall by regulation determine.

"SEC. 390. DEFINITIONS.

"For the purposes of this part:

"(1) The terms 'Indian' and 'Indian tribe' have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978.

"(2) The term 'tribally controlled postsecondary vocational institution' means an institution of higher education which is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes which offers technical degrees or certificate granting programs.

"(3) The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled vocational institution, determined as follows:

"(A) The registrations of Indian students as in effect on October 1 of each year.

"(B) Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

"(C) Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

"(D) Indian students earning credits in any continuing education program of a tribally controlled vocational institution shall be included in determining the sum of all credit or clock hours.

"(E) Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.".

SEC. 312. TRIBAL ECONOMIC DEVELOPMENT.

The Tribally Controlled Community College Assistance Act of 1978 is amended by adding at the end the following new title:

"TITLE IV—TRIBAL ECONOMIC DEVELOPMENT

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'.

"SEC. 402. GRANTS AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this Act or the Navajo Community College Act for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a

grant under this subsection shall include at least the following activities:

"(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resources needs.

"(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

"(3) The conduct of vocational courses, including administrative expenses and student support services.

"(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

"(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

"(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

"(b) AMOUNT AND DURATION.—The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

"(c) APPLICATIONS.—Institutions which receive funds under other titles of this Act or the Navajo Community College Act may apply for grants under this title either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this part.

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this part $2,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the 5 succeeding fiscal years.".

SEC. 313. FACILITIES.

Section 112 of the Tribally Controlled Community College Assistance Act of 1978 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this Act or the Navajo Community College Act.

"(2) An organization described in this section is any organization that—

"(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act; and

"(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

"(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.".

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH AND DEVELOPMENT.

The heading for part A of title IV of the Act is amended to read as follows:

"PART A—RESEARCH AND DEVELOPMENT".

SEC. 402. RESEARCH OBJECTIVES.

Section 401 of the Act (20 U.S.C. 2401) is amended—

(1) in paragraph (1), by striking "single parents or homemakers" and inserting "single parents, displaced homemakers, or single pregnant women";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) to authorize additional research and development activities that are related to the purposes of this Act as stated in section 2;".

SEC. 403. RESEARCH ACTIVITIES.

Section 402 of the Act is amended—

(1) in subsection (a)—

(A) by striking "National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate" and inserting "Office of Educational Research and Improvement";

(B) in paragraph (1), by striking "individuals who are single parents or homemakers" and inserting "single parents, displaced homemakers, single pregnant women";

(C) by striking paragraphs (5) and (6);

(D) by redesignating paragraph (4) as paragraph (6);

(E) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(F) by redesignating paragraph (7) as paragraph (8);

(G) by inserting after paragraph (1) the following new paragraphs:

"(2) research on the development and implementation of performance standards and measures that fit within the needs of State boards or eligible recipients in carrying out the provisions of this Act and on the relationship of such standards and measures to the data system established under section 421, which may include evaluation of existing performance standards and measures and dissemination of such information to the State board and eligible recipients;

"(3) evaluation of the use of performance standards and measures under this Act and the effect of such standards and measures on the participation of students in vocational education programs and on the outcomes of students in such programs, especially students who are members of special populations;";

(H) in paragraph (6) (as redesignated by subparagraph (D) of this section)—

(i) by inserting "and more advanced" after "basic"; and

(ii) by inserting "and problem-solving" after "academic"; and

(I) by inserting after paragraph (6) (as redesignated by subparagraph (D) of this section) the following new paragraph:

"(7) successful methods for providing students, to the maximum extent practicable, with experience in and understanding of all aspects of the industry such students are preparing to enter; and"

(2) by amending subsection (b) to read as follows:

"(b) In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this Act.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) DISSEMINATION.—The Secretary shall establish a system for disseminating information resulting from research and development activities carried out under this Act. In establishing such system, the Secretary shall use existing dissemination systems, including the National Diffusion Network, the National Center or Centers for Research in Vocational Education, and the National Network for Curriculum Coordination in Vocational and Technical Education, in order to assure broad access at the State and local levels to the information being disseminated.

"(2)(A) In order to comply with paragraph (1), the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education (in this paragraph referred to as the 'Network') consisting of 6 regional curriculum coordination centers. The Network shall—

"(i) provide national dissemination of information on effective vocational education programs and materials, with particular attention to regional programs;

"(ii) be accessible by electronic means;

"(iii) provide leadership and technical assistance in the design, development, and dissemination of curricula for vocational education;

"(iv) coordinate the sharing of information among the States with respect to vocational education curricula;

"(v) reduce duplication of effort in State activities for the development of vocational education curricula; and

"(vi) promote the use of research findings with respect to vocational education curricula.

"(B) The Secretary shall encourage the designation by each State of a liaison representative for the Network."; and

(5) in paragraph (1) of subsection (e) (as redesignated in paragraph (3)) by striking "(1)"; and

(6) by striking paragraph (2) of subsection (e) (as redesignated in paragraph (3)).

SEC. 404. NATIONAL ASSESSMENT.

Section 403 of the Act is amended to read as follows:

"SEC. 403. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) The Office of Education Research and Improvement (in this section referred to as the 'Office') shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Office shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of business, industry, labor, and other relevant groups, to advise the Office on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The Federal Advisory Committee Act shall not apply to the panel established under this paragraph.

"(b) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State and tribal administration of vocational education programs and on local vocational edu-

cation practices, including the capacity of State, tribal and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, tribal and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

"(4) participation in vocational education programs, including, in particular, access of individuals who are members of special populations to high-quality vocational education programs and the effect on the delivery of services to such populations, of Federal legislation giving States flexibility in allocating funds to serve such populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the effect of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the effect of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the effect of Federal requirements regarding criteria for services to special populations, participatory planning in the States, and articulation between secondary and postsecondary programs;

"(9) coordination of services under this Act, the Adult Education Act, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act; and

"(10) the degree to which minority students are involved in vocational student organizations.

"(c) CONSULTATION.—(1) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a).

"(2) The Secretary shall submit to the Congress—

"(A) an interim report on or before January 1, 1994; and

"(B) a final report, summarizing all studies and analyses completed after the assessment, on or before July 1, 1994.

"(3) Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

"(d) STUDY.—(1) The assessment required by subsection (a) shall include a study of the distribution of Federal vocational education funds to the States. The study shall—

"(A) consider the distributional effects of the formula for allocation to the States established in section 101(a)(2), including the age cohorts and the per capita income allotment ratios;

"(B) examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act;

"(C) specifically address the appropriate distribution mechanism to serve the target populations of this Act;

"(D) explore the use of other possible methods of targeting funds to individuals who are members of special populations, particularly individuals who are economically disadvantaged, including the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(2) The findings of the study required by paragraph (1) shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(3) The study required under paragraph (1) shall be completed by January 1, 1994.".

SEC. 405. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

Section 404 of the Act is amended to read as follows:

"SEC. 404. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

"(a) GENERAL AUTHORITY.—(1) In order to address the purposes of this Act through the involvement of a broad array of individuals, including both vocational and academic teachers and administrators, the Secretary is authorized to award a grant or grants for the establishment of 1 or 2 national centers in the areas of—

"(A) applied research and development; and

"(B) dissemination and training.

"(2)(A) Each entity selected to establish and operate a Center pursuant to paragraph (1) shall operate such Center for a period of 5 years.

"(B) Beginning after December 31, 1992, the Secretary shall award an annual grant to the National Center or Centers selected pursuant to paragraph (1) for each of the 5 years such National Center is operated. After the third year in which the National Center or Centers receive a grant under this section the Secretary shall review the research priorities of the National Center or Centers.

"(3) Of the amount available pursuant to section 451(a)(1) for purposes of carrying out this section, at least ⅔ of such amount shall be available for applied research and development.

"(4)(A) The Secretary shall hold a competition at the same point in time for the grant or grants for the activities described in paragraph (1). Any institution of higher education or consortium of such institutions may compete for either or both sets of activities.

"(B) For the purpose of this section the term 'institution of higher education' has the same meaning as provided by section 435(b) of the Higher Education Act of 1965.

"(5) If an institution or consortium demonstrates that it can effectively carry out both activities either directly or through contracting, such institution or consortium shall be given a preference in the grant selection. If no institution or consortium demonstrates such capability and 2 grants are awarded, the Secretary must assure coordination of the activities under both grants.

"(6) Not more than 10 percent of each year's budget for the Center or for each of the Centers may be used to respond to field-initiated needs unanticipated prior to the annual funding period and which are in the mission of the Center but not part of the scope of work of the grant.

"(7) The National Center in existence on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 shall continue to operate through its 5-year cycle ending December 31, 1992.

"(b) ACTIVITIES.—(1) The applied research and development activities shall include—

"(A) economic changes that affect the skills which employers seek and entrepreneurs need;

"(B) integration of academic and vocational education;

"(C) efficient and effective practices for addressing the needs of special populations;

"(D) efficient and effective methods for delivering vocational education;

"(E) articulation of school and college instruction with high quality work experience;

"(F) recruitment, education, and enhancement of vocational teachers and other professionals in the field;

"(G) accountability processes in vocational education, to include identification and evaluation of the use of appropriate performance standards for student, program, and State-level outcomes;

"(H) effective practices that educate students in all aspects of the industry the students are preparing to enter;

"(I) effective methods for identifying and inculcating literacy and other communication skills essential for effective job preparation and job performance;

"(J) identification of strategic, high priority occupational skills and skills formation approaches needed to maintain the competitiveness of the United States work force, sustain high-wage, high-technology jobs and which address national priorities such as technical jobs needed to protect and restore the environment;

"(K) identification of practices and strategies that address entrepreneurial development for minority-owned enterprises; and

"(L) upon negotiation with the Center, and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the research conducted on approaches that lead to effective articulation for the education-to-work transition, including tech-prep programs, cooperative education or other work-based programs, such as innovative apprenticeship or mentoring approaches, and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(c) DISSEMINATION AND TRAINING.—(1) The dissemination and training activities shall include—

"(A) teacher and administrator training and leadership development;

"(B) technical assistance to assure that programs serving special populations are effective in delivering well-integrated and appropriately articulated vocational and academic offerings for secondary, postsecondary, and adult students;

"(C) needs assessment, design, and implementation of new and revised programs

with related curriculum materials to facilitate vocational-academic integration;

"(D) evaluation and follow-through to maintain and extend quality programs;

"(E) assistance in technology transfer and articulation of program offerings from advanced technology centers to minority enterprises;

"(F) assistance to programs and States on the use of accountability indicators, including appropriate and innovative performance standards;

"(G) delivery of information and services using advanced technology, where appropriate, to increase the effectiveness and efficiency of knowledge transfer;

"(H) development of processes for synthesis of research, in cooperation with a broad array of users, including vocational and non-vocational educators, employers and labor organizations;

"(I) dissemination of exemplary curriculum and instructional materials, and development and publication of curriculum materials (in conjunction with vocational and non-vocational constituency groups, where appropriate);

"(J) technical assistance in recruiting hiring, and advancing minorities in vocational education; and

"(K) upon negotiation with the Center and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the dissemination and training activities described in paragraph (1) and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) AUTHORIZATION OF OTHER RESEARCH.—There are authorized to be appropriated $3,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out such additional activities assigned by the Secretary to the National Center in existence on the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 until the termination of its grant on December 31, 1992 and to carry out the provisions of subsections (b)(1)(L) and (c)(1)(K).

SEC. 406. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part B of title IV of the Act is amended to read as follows:

"PART B—DEMONSTRATION PROGRAMS

"SEC. 411. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—From amounts available pursuant to section 101(a)(1)(A) in each fiscal year, the Secretary shall make demonstration grants in accordance with the provisions of this part.

"(b) PRIORITY.—In awarding demonstration grants pursuant to this part, the Secretary shall give priority to the programs described in sections 412 and 413.

"SEC. 412. MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b) FEDERAL SHARE.—(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

"(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

"(c) USE OF FUNDS.—Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators and correctional educators.

"(d) PRIORITY.—In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) students in area vocational and technical schools;

"(2) teachers, administrators, and counselors in need of training or retraining;

"(3) out-of-school adults in need of basic skills improvement or a high school equivalency diploma to improve the employability of such individuals;

"(4) college students, particularly college students who are working toward a 2-year associate degree from a technical or community college;

"(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

"(6) workers who need to improve their skills to obtain jobs in high-growth industries.

"SEC. 413. DEMONSTRATION CENTERS FOR THE TRAINING OF DISLOCATED WORKERS.

(a) GENERAL AUTHORITY.—The Secretary is authorized to establish 1 or more demonstration centers for the retraining of dislocated workers. Such center or centers may provide for the recruitment of unemployed workers, vocational evaluation, assessment and counseling services, vocational and technical training, support services, and job placement assistance. The design and operation of each center shall provide for the utilization of appropriate existing Federal, State, and local programs.

"(b) EVALUATION.—The Secretary shall provide for the evaluation of each center established under subsection (a).

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information on successful retraining models developed by any center established under subsection (a) through dissemination programs operated by the Secretary and the Secretary of Labor.

"(d) ELIGIBLE ORGANIZATIONS.—Any private, nonprofit organization that is eligible to receive funding under the Job Training Partnership Act is eligible to receive funding under this section.

"SEC. 414. PROFESSIONAL DEVELOPMENT.

(a) TRAINING AND STUDY GRANTS.—(1) The Secretary is authorized to provide grants to institutions of higher education, State educational agencies, or State correctional education agencies to provide grants, awards, or stipends—

"(A) to individuals who are entering the field of vocational education;

"(B) for graduate training in vocational education;

"(C) for vocational teacher education; and

"(D) for attracting gifted and talented students in vocational programs into further study and professional development.

(2) Grants, awards, and stipends awarded under paragraph (1) shall provide—

"(A) opportunities for experienced vocational educators;

"(B) opportunities for—

"(i) certified teachers who have been trained to teach in other fields to become vocational educators, including teachers with skills related to vocational fields who can be trained as vocational educators, and especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with handicaps, students of limited English proficiency, and adult and juvenile criminal offenders;

"(ii) individuals in industry who have skills and experience in vocational fields to be trained as vocational educators; and

"(iii) vocational educators to improve or maintain technological currency in their fields; and

"(C) opportunities for gifted and talented vocational education secondary and postsecondary students to intern with Federal or State agencies, nationally recognized vocational education associations and student organizations or the National Center or Centers for Research in Vocational Education.

"(b) LEADERSHIP DEVELOPMENT AWARDS.—(1) In order to meet the needs of all States for qualified vocational education leaders (such as administrators, supervisors, teacher educators, researchers, career guidance and vocational counseling personnel, vocational student organization leadership personnel and teachers in vocational education programs), the Secretary shall make grants to institutions of higher education for leadership development awards. Individuals selected for such awards shall—

"(A) have not less than 3 years of experience in vocational education or in industrial training, or, in the case of researchers, experience in social science research which is applicable to vocational education;

"(B) are currently employed or are reasonably assured of employment in vocational education and have successfully completed at least a baccalaureate degree program;

"(C) are recommended by their employer, or others, as having leadership potential in the field of vocational education and have been accepted for admission as a graduate student in a program of higher education approved by the Secretary; and

"(D) have made a commitment to return to the field of vocational education upon completion of education provided through the leadership development award.

"(2) For a period of not more than 3 years, stipends shall be paid to individuals selected for leadership development awards. Such stipends shall be paid (including allowances for tuition, nonrefundable fees, and other expenses for such individuals and their dependents) as may be determined to be consistent with prevailing practices.

"(3) The Secretary may provide grants to institutions for stipends to individuals, which shall not exceed $9,000 per individual per academic year or its equivalent and $3,000 per individual per summer session or its equivalent.

"(4) The Secretary shall approve the application of the vocational education program of an institution of higher education for the purposes of this section only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research, and curriculum development;

"(B) such program is designed to substantially advance the objective of improving vocational education through providing opportunities for graduate training of vocational teachers, supervisors, and administrators, and of university-level vocational education teacher educators and researchers; and

"(C) such programs are conducted by a school of graduate study in the institution of higher education.

"(5) The Secretary, in carrying out this subsection shall apportion leadership development awards to institutions of higher education equitably among the States, taking into account such factors as the State's vocational education enrollments and the need for additional vocational education personnel in the State.

"(6) Each individual who receives a leadership development award under this subsection shall receive payments as provided in paragraph (2) for not more than a 3-year period during which such individual is—

"(A) pursuing a full-time course of study in vocational education in an approved institution of higher education;

"(B) maintaining satisfactory proficiency in such course of study; and

"(C) not engaged in gainful employment other than part-time employment by such institution in teaching, research, or similar activities.

"(c) VOCATIONAL EDUCATOR TRAINING FELLOWSHIPS.—(1) The purpose of this subsection is to provide fellowships—

"(A) to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education who are technologically current in their fields;

"(B) to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experience in vocational fields; and

"(C) to encourage more instructors from minority groups and teachers with skills and experience with individuals of limited English proficiency to become vocational education teachers.

"(2) The Secretary shall make available fellowships, in accordance with the provisions of this subsection, to individuals (especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with disabilities, students of limited English proficiency, and adult and juvenile criminal offenders) who—

"(A)(i)(I) are employed in vocational education and need an opportunity to improve or maintain technological skills;

"(II) are certified by a State, or were so certified during the 10-year period preceding their application for a fellowship under this subsection, as teachers in secondary schools, area vocational education schools or institutes, or in community or junior colleges; and

"(III) have skills and experiences in vocational fields so that such individuals can be trained to be vocational educators; or

"(ii) are employed in agriculture, business, or industry (and may or may not hold a baccalaureate degree) and have skills and experience in vocational fields for which there is a need for vocational educators;

"(B) have been accepted in a program to become a vocational educator by an institution of higher education approved by the Secretary; and

"(C) have made a commitment to work in the field of vocational education upon completion of such program.

"(2) The Secretary shall, for a period of not more than 2 years, provide stipends to individuals who are awarded fellowships under this subsection (including such allowances for tuition, nonrefundable fees, subsistence and other expenses for such individuals and the dependents of such individuals) as the Secretary may determine to be consistent with prevailing practices.

"(3) The Secretary shall approve an institution of higher education under this subsection if—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research and curriculum development; and

"(B) such program is available to individuals receiving fellowships under this subsection so that such individuals receive the same quality of education and training provided for undergraduate students at such institution who are preparing to become vocational education teachers.

"(4) The Secretary shall apportion the fellowships available under this subsection equitably among the States, taking into account such factors as the State's vocational education enrollments, and the need in the State for additional vocational educators, especially minority educators and individuals with skills and experience in teaching individuals of limited English proficiency.

"(5) Individuals receiving fellowships under this subsection shall continue to receive payments provided in paragraph (2) only during such period as such individuals—

"(A) are maintaining satisfactory proficiency;

"(B) are devoting full time to study in the field of vocational education in an institution of higher education; and

"(C) are not engaging in gainful employment other than part-time employment by such institution.

"(6)(A) The Secretary shall, before the beginning of each fiscal year for which amounts are appropriated or otherwise made available to carry out this subsection, publish a listing of—

"(i) the areas of teaching in vocational education in need of additional personnel;

"(ii) the areas of teaching which will likely have need of additional personnel in the future; and

"(iii) areas of teaching in which technological upgrading may be especially critical.

"(B) The listing required by subparagraph (A) shall be based on information from the National Occupational Information Coordinating Committee, State occupational information coordinating committees, the vocational education data system established pursuant to section 421, and other appropriate sources.

"(7) In selecting recipients for fellowships under this subsection, the Secretary shall, to the maximum extent practicable, grant fellowships to individuals seeking to become teachers or improve their skills in the areas identified in the listing required by paragraph (6)(A).

"(d) INTERNSHIPS FOR GIFTED AND TALENTED STUDENTS.—(1) The purpose of this subsection is to provide stipends for internships to meet the need of attracting gifted and talented vocational education students into further study and professional development in the field of vocational education.

"(2)(A) The Secretary shall, from recommendations provided by State directors of vocational education, select gifted and talented students from vocational education secondary and postsecondary programs to work as interns for Federal and State agencies, nationally recognized vocational education associations, or the National Center or Centers for Research in Vocational Education. Each such student shall receive a stipend for the period of the student's internship, which shall not exceed 9 months. Such stipend shall cover subsistence and other expenses for such individuals and shall be in such amount as the Secretary may determine to be consistent with prevailing practices.

"(B) Each individual selected under this paragraph shall have been recommended as gifted and talented by a vocational educator at the secondary or postsecondary school the student attends.

"(C) Each individual selected under this paragraph shall, during the period of such individual's internship, be provided with professional supervision by an individual qualified and experienced in the field of vocational education at the agency or institution at which the internship is offered.

"SEC. 115. BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS.

"(a) INFORMATION DISSEMINATION.—The Secretary is authorized to disseminate information and exemplary materials regarding effective vocational education.

"(b) STANDARDS OF EXCELLENCE.—(1) The Secretary, in consultation with the National Center or Centers for Research in Vocational Education (in this section referred to as the 'National Center or Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, is authorized to carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality. Such schools and programs shall be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

"(2) In the case of a private school or vocational education program that is designated as a Blue Ribbon Vocational Education Program, the Secretary shall make suitable arrangements to provide the award to such school.

"(c) Awards.—(1) The Secretary, in consultation with the National Center or Centers for Research and the National Occupational Information Coordinating Committee (in this section referred to as the 'Committee'), is authorized to designate each fiscal year a category or several categories of vocational education, which may include tech-prep education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of individuals who are members of special populations and may give special consideration to any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Center or Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(d) CONSULTATION.—(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational education school, intermediate educational agency, tribal authority, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

"SEC. 416. DEVELOPMENT OF BUSINESS AND EDUCATION STANDARDS.

"(a) FINDINGS.—The Congress finds that, in order to meet the needs of business for competent entry-level workers who have received a quality vocational education, national standards should be developed for competencies in industries and trades.

"(b) GENERAL AUTHORITY.—(1) The Secretary, in consultation with the Secretary of Labor, is authorized to establish a program of grants to industrial trade associations, labor organizations, or comparable national organizations for purposes of organizing and operating business-labor-education technical committees.

"(2) The committees established with assistance under this section shall propose national standards for competencies in industries and trades. Such standards shall at least include standards for—

"(A) major divisions or specialty areas identified within occupations studied;

"(B) minimum hours of study to be competent in such divisions or specialty areas;

"(C) minimum tools and equipment required in such divisions or specialty areas;

"(D) minimum qualifications for instructional staff; and

"(E) minimum tasks to be included in any course of study purporting to prepare individuals for work in such divisions or specialty areas.

"(c) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall agree to provide for the committee to be established under the grant an amount equal to the amount provided under the grant.

"(d) APPLICATION.—Any industrial trade association, labor organization, national joint apprenticeship committee, or comparable national organization that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"SEC. 417. EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or business and industry, to provide education and training for criminal offenders in such institutions.

"(b) USE OF FUNDS.—Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from correctional institutions.

"SEC. 418. DROPOUT PREVENTION.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to partnerships between—

"(1) local educational agencies or area vocational education schools; and

"(2) institutions of higher education or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

"(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

"(2) provide inservice training for teachers and administrators in dropout prevention; and

"(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the Center on Adult, Career and Vocational Education of the Educational Resources Information Clearinghouse.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to partnerships which—

"(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

"(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.

"SEC. 419. MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States, and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) USE OF FUNDS.—The regional model centers described in subsection (a) shall—

"(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skilled shortages;

"(2) provide prejob and apprenticeship training and career counseling in skilled trades;

"(3) upgrade specialized craft training; and

"(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with handicaps and ex-criminal offenders to trade occupations and training.

"(c) SPECIAL RULE.—In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

"SEC. 420. DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education, area vocational education schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965.

"(b) REQUIREMENTS RELATING TO GRANT AWARDS.—In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve individuals who are members of special populations;

"(4) that programs supported under this section serve—

"(A) vocational students in secondary schools and at postsecondary institutions;

"(B) individuals enrolled in adult programs; and

"(C) single parents, displaced homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.".

"SEC. 420A. COOPERATIVE DEMONSTRATION PROGRAMS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

"(1) model programs providing improved access to quality vocational education programs for those individuals described in section 521(31) of this Act and for men and women seeking nontraditional occupations;

"(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

"(A) work experience and apprenticeship programs;

"(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

"(C) placement services in occupations which the students are preparing to enter;

"(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public; and

"(E) employment-based learning programs;";

"(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce;

"(4) model programs described in section 312(b)(1), including child growth and development centers;

"(5) grants to community-based organizations in partnerships with local schools, institutions of higher education, and businesses for programs and projects that assist disadvantaged youths in preparing for technical and professional health careers (which partnerships should include in-kind contributions from such schools, institutions, and businesses and involve health professionals serving as preceptors and counselors); and

"(6) model programs providing improved access to vocational education programs through centers to be known as agriculture action centers, which programs shall be operated under regulations developed by the Secretary in consultation with the Secretary of Labor and—

"(A) shall assist—

"(i) individuals who are adversely affected by farm and rural economic downturns;

"(ii) individuals who are dislocated from farming; and

"(iii) individuals who are dislocated from agriculturally-related businesses and industries that are adversely affected by farm and rural economic downturns;

"(B) shall provide services, including—

"(i) crisis management counseling and outreach counseling that would include members of the family of the affected individual;

"(ii) evaluation of vocational skills and counseling on enhancement of such skills;

"(iii) assistance in obtaining training in basic, remedial, and literacy skills;

"(iv) assistance in seeking employment and training in employment-seeking skills; and

"(v) assistance in obtaining training related to operating a business or enterprise;

"(C) shall provide for formal and on-the-job training to the extent practicable; and

"(D) shall be coordinated with activities and discretionary programs conducted under title III of the Job Training Partnership Act.

"(b)(1) Projects described in clause (2) of subsection (a) may include institutional and on-the-job training, supportive services authorized by this Act, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

"(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

"(c) All programs assisted under this section shall be—

"(1) of direct service to individuals enrolled in such programs; and

"(2) capable of wide replication by service providers.

"(d) The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this Act.

SEC. 107. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act (20 U.S.C. 2421) is amended to read as follows:

"SEC. 421. DATA SYSTEMS AUTHORIZED.

"(a) ESTABLISHMENT OF SYSTEM.—(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, establish a vocational educational data system (in this section referred to as the 'system'), using comparative information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than the end of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

"(3) The National Center for Education Statistics (in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) FUNCTIONS OF SYSTEM.—Through the system, the Secretary shall collect data and analyze such data in order to provide—

"(1) the Congress with information relevant to policymaking; and

"(2) Federal, State, and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c) CONTENTS OF SYSTEM.—(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, facilities, and, to the extent practicable, equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force, the National Center, and the Office of Adult and Vocational Education (in this section referred to as the 'Office'), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in the design, implementation and reporting of such systems in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) women;

"(B) Indians;

"(C) individuals with handicaps;

"(D) individuals of limited English proficiency;

"(E) economically disadvantaged students (including information on students in rural and urban areas);

"(F) adults who are in need of training and retraining;

"(G) single parents;

"(H) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(I) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(J) minorities; and

"(K) displaced homemakers.

"(3) The Secretary, in consultation with the National Center and the Office, shall maintain and update the system at least every 3 years and assure the system provides the highest quality statistics and is adequate to meet the information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

"(d) ASSESSMENT OF INTERNATIONAL COMPETITIVENESS.—The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations which are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

"(e) USE OF AND COMPATIBILITY WITH OTHER DATA COLLECTION SYSTEMS.—(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that the system allows international comparisons to the extent feasible.

"(3) The Secretary shall assure that the system, to the extent practicable, uses data definitions common to State plans, performance standards, local applications and evaluations required by this Act. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations

"(f) REPORTS.—The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g) VOCATIONAL EDUCATION ADVISORY TASK FORCE.—(1) The Secretary, in consultation with the National Center and the Office shall establish a Vocational Education Advisory Task Force.

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and vocational postsecondary educational institutions, representatives of vocational student organizations, representatives of special populations, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

"(h) ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.—As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and other students in the areas assessed. Such assessment may include international comparisons.

SEC. 408. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO HEADING.—The heading for section 422 of the Act is amended to read as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Postsecondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: ", including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and";

(2) by adding at the end the following new subsections:

"(c)(1)(A) The Committee, in consultation with the National Center or Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

"(B)(i) Participation in the program described in subparagraph (A) shall be voluntary. The Committee shall enter into an agreement with any State which desires to carry out a study for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(I) that the State will participate in the study;

"(II) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(III) that the State agrees to the terms and conditions specified in this section.

"(ii) For each fiscal year, the non-Federal share for the purpose of this program shall be the cost of conducting the study in the State, including the cost of administering the assessment for the State sample and the cost of coordination within the State.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

"(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

"(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to ensure that the information disclosed to the Committee is used only for the purposes of this subsection.

"(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) Of amounts reserved under section 451(a)(3)(A) to carry out the provisions of this section, the Committee shall use—

"(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

"(A) an amount equal to the aggregate amount appropriated or otherwise made available for that purpose for the fiscal year 1990; or

"(B) an amount equal to 75 percent of the aggregate amount appropriated or otherwise made available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.".

SEC. 409. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

Section 423 of the Act is amended to read as follows:

"SEC. 423. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

"(a) INFORMATION RELATING TO STUDENTS WITH HANDICAPS.—(1) The Secretary shall ensure that adequate information on access to vocational education by secondary school students with handicaps is maintained in the data system established under section 421.

"(2) The system shall include detailed information obtained through scientific sample surveys concerning—

"(A) types of programs available; and

"(B) enrollment of students with handicaps by—

"(i) type of program;

"(ii) type of instructional setting; and

"(iii) type of handicap.

"(3)(A) The General Accounting Office shall conduct a 3-year study, using representative samples, of the effects of the amendments made by title II of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990 on the access to and participation in vocational education of disadvantaged students, students with handicaps, students of limited English proficiency, and, to the extent practicable, foster children.

"(B) The study shall include consideration of issues such as—

"(i) the proportion of students described in paragraph (1) who are enrolled in vocational education programs during the first 3 program years to which the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments Act of 1990 apply compared to the program year preceding such years;

"(ii) the number of such students who enroll in vocational education programs for the first time during the period of study;

"(iii) the number of such students who participate in vocational education programs that lead to an occupational skill or job placement;

"(iv) the extent to which academics are incorporated with vocational education courses;

"(v) the manner in which vocational education programs have addressed special needs of such students for supportive services, material, and equipment;

"(vi) the comparability of vocational education services provided to such students with vocational education services provided to students who are not members of special populations; and

"(vii) in the case of students with handicaps—

"(I) the types and severity of handicaps of such students who enroll in vocational education programs;

"(II) the extent to which such students participate in the same vocational education programs as students who do not have handicaps;

"(III) the number of such students with individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act who have individualized education programs that include vocational education programs;

"(IV) the extent to which special personnel such as special education personnel or vocational rehabilitation personnel assist in the selection and provision of vocational education programs with respect to such students;

"(V) the extent to which such students and their parents are involved in selecting vocational education courses and programs;

"(VI) the number of such students who have returned to secondary vocational education programs after dropping out of or formally exiting the local educational system; and

"(VII) the ages of such students.

"(C) In conducting the study required by this subsection, the General Accounting Office may consider and include information from other sources to address or augment the issues considered in the study.

"(4) The General Accounting Office shall submit to the appropriate committees of the Congress a report describing the results of the study conducted as required by this subsection not later than July 1, 1995.

"(b) INFORMATION RELATING TO STUDENTS WHO HAVE COMPLETED SECONDARY SCHOOL.—(1) To carry out the provisions of this section, in accordance with the provisions of section 3 of the Technology Assessment Act of 1972, the Office of Technology Assessment shall conduct an assessment of a sample of tests designed to be administered to students who have completed secondary school to assess the level of technical knowledge relating to broad technical fields possessed by such students. The assessment shall include at least—

"(A) an assessment of the quality, validity, reliability, and predictive capability of widely used vocational aptitude and competency tests and assessments, with particular attention to—

"(i) the use of such assessments with respect to students who are members of special populations; and

"(ii) patterns of actual usage with respect to entry into vocational education programs, promotion within such programs, completion of such programs, and placement in appropriate positions;

"(B) identification of trends in such tests and assessments, including any relationship to vocational education curricula; and

"(C) identification of policy options for—

"(i) strengthening development and quality of such tests and assessments to ensure that such tests and assessments are conducted in an impartial manner that does not penalize students on the basis of race, sex, or economic background; and

"(ii) means of sustaining competition in the development of such tests and assessments.

"(2) The results of the study required by paragraph (1) shall be reported to the appropriate committees of the Congress not later than September 30, 1994.".

SEC. 410. MISCELLANEOUS PROVISIONS.

Part C of title IV of the Act is amended by adding at the end the following new section:

"SEC. 424. MISCELLANEOUS PROVISIONS.

"(a) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this part. To ensure reasonable cost, the Secretary, in consultation with the Vocational Education Task Force, the National Center for Education Statistics, the Office of Vocational and Adult Education, and the National Occupational Information Coordinating Committee shall determine the methodology to be used and the frequency with which information is to be collected.

"(b) COOPERATION OF STATES.—All States receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this part.".

SEC. 411. REPEAL OF NATIONAL COUNCIL ON VOCATIONAL EDUCATION.

(a) IN GENERAL.—Part D of title IV of the Act (20 U.S.C. 2431) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of the Act (20 U.S.C. 2301 note) is amended by striking the items relating to part D and to section 431.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1991.

SEC. 412. GENERAL PROVISIONS.

Section 451 of the Act is amended to read as follows:

"SEC. 451. DISTRIBUTION OF ASSISTANCE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b) and section 504, of the amounts available pursuant to section 3(e)(1) for any fiscal year for this title—

"(1) 30 percent shall be available for part A, relating to research and development, of which 90 percent shall be available for section 404, relating to the National Center or Centers;

"(2) 30 percent shall be available for part B, relating to demonstration programs; and

"(3) 40 percent shall be available for part C, relating to vocational education and occupational information data systems, of which not less than—

"(A) 22 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available to carry out section 422, relating to the National Occupational Information Coordinating Committee;

"(B) 8 percent shall be available to carry out the provisions of section 421, relating to data systems; and

"(C) 10 percent shall be available to carry out the provisions of section 402(c), relating to the National Network for Curriculum Coordination.

"(b) HOLD HARMLESS.—Notwithstanding the provisions of subsection (a), the amounts available to carry out the activities described in subsection (a)(1) and in subsections (a)(3)(A) and (a)(3)(C) shall be at least equal to the amounts made available for such activities in the fiscal year 1990.".

TITLE V—GENERAL PROVISIONS

SEC. 501. FEDERAL ADMINISTRATIVE PROVISIONS.

(a) ELIMINATION OF MATCHING REQUIREMENTS AND TRANSFER OF STATE PROVISION.—(1) Sections 502, 504, and 505 of the Act (20 U.S.C. 2462, 2465, 2466) are repealed.

(2) Sections 503 and 506 of the Act (20 U.S.C. 2463, 2466), are redesignated as sections 502 and 503, respectively.

(b) MAINTENANCE OF EFFORT.—The first sentence of section 502(b) of the Act (as redesignated by subsection (a)(2) of this section) is amended by inserting after "this section" the following: "(with respect to not more than 5 percent of expenditures by any State educational agency)".

(c) ADDITIONAL ADMINISTRATIVE PROVISIONS.—Title V of the Act (20 U.S.C. 2461 et seq.) is amended—

(1) by redesignating part B as part C; and

(2) by inserting after section 503 the following:

"SEC. 504. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) IN GENERAL.—(1) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such meetings shall include individuals and representatives of groups involved in vocational education programs under this Act, such as Federal, State, tribal and local administrators, parents, teachers, members of local boards of education and special populations.

"(2) During each meeting described in paragraph (1), the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. The Secretary shall take into account information received at such meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations under this Act and submit regulations on at least 2 key issues to a negotiated rulemaking process. The Secretary shall follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4 and 85-5, 'Procedures for Negotiating Proposed Regulations' (1 C.F.R. 305.82-4 and 85-5) and any successor recommendation, regulation, or law. Participants in the negotiation process shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in subsection (a)(1) and all geographic regions. At least 10 participants, 1 from each of the regions served by a regional office established pursuant to section 416 of the Department of Education Organization Act, representing the groups described in subsection (a)(1), shall be chosen under the preceding sentence. The negotiation process shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period

required by section 431(g) of the General Education Provisions Act.

"(c) SPECIAL RULE.—If a regulation must be issued within a very limited time period to assist States and eligible recipients with the operation of a program under this Act, the Secretary may issue a regulation without fulfilling the requirements of subsections (a) and (b), but shall immediately convene regional meetings to review the regulation before such regulation is issued in final form.

"(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

"(e) RESERVATION OF AMOUNTS.—For the fiscal year 1991, the Secretary may reserve for purposes of carrying out subsection (b) not more than $300,000 from amounts made available under section 3(e).

"SEC. 505. REQUIREMENTS RELATING TO REPORTS, PLANS, AND REGULATIONS.

"The General Accounting Office shall, upon the request of any Member of the Congress—

"(1) investigate the circumstances of any failure by the Secretary to submit any report or research finding or issue any regulation required by this Act by the time specified in the provision of this Act requiring the submission of such report or research finding or issuance of such regulation; and

"(2) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the results of any investigation conducted pursuant to paragraph (1), including an identification of the cause of delay and of the office or offices of the Department of Education or of the Office of Management and Budget responsible for the delay.

"SEC. 506. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.

"Nothing in this Act shall be construed to be inconsistent with appropriate Federal laws guaranteeing civil rights.

"SEC. 507. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

"(a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"SEC. 508. FEDERAL MONITORING.

"The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this Act with the provisions of this Act. Such monitoring activities shall be developed by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

"(1) consider items such as whether the provisions of the State plan are being fully implemented;

"(2) consider items such as whether the State board's monitoring of local recipients of assistance under this Act is adequate to assure full compliance with the provisions of this Act by such recipients;

"(3) consider items such as whether the State-level coordinators for individuals who are members of special populations are able to review the local plans for serving such individuals;

"(4) consider items such as whether the other State responsibilities under this Act are being implemented; and

"(5) provide for input from students, parents, teachers, and special populations in the States.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"SEC. 511. JOINT FUNDING.

"(a) GENERAL AUTHORITY.—Funds made available to States under this Act may be used to provide additional funds under an applicable program if—

"(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(2) such program serves the same individuals that are served under this Act;

"(3) such program provides services in a coordinated manner with services provided under this Act; and

"(4) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(b) APPLICABLE PROGRAMS.—For the purposes of this section, the term 'applicable program' means any program under any of the following provisions of law:

"(1) Section 123, title II, and title III of the Job Training Partnership Act.

"(2) The Wagner-Peyser Act.

"(c) ISSUANCE OF REGULATIONS.—Notwithstanding the provisions of section 504, the Secretary shall develop regulations to be issued under this section in consultation with the Secretary of Labor.

"(d) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term 'additional funds' includes the use of funds as matching funds.

"SEC. 512. REVIEW OF REGULATIONS.

"(a) ESTABLISHMENT OF REVIEW COMMITTEE.—Except as provided in subsection (b), before any State publishes any proposed or final state rule or regulation pursuant to this Act, the State shall establish and convene a State Committee of Practitioners (in this section referred to as the 'Committee') for the purpose of reviewing such rule or regulation. The Committee shall be selected from nominees solicited from State organizations representing school administrators, teachers, parents, members of local boards of education, and appropriate representatives of institutions of higher education. The Committee shall consist of—

"(1) representatives of local educational agencies, who shall constitute a majority of the members of the Committee;

"(2) school administrators;

"(3) teachers;

"(4) parents;

"(5) members of local boards of education;

"(6) representatives of institutions of higher education; and

"(7) students.

"(b) LIMITED EXCEPTION.—In an emergency, where a regulation must be issued within a very limited time period to assist eligible recipients with the operation of a program, the State may issue a regulation without fulfilling the requirements of subsection (a), but shall immediately convene the Committee to review the regulation before it is issued in final form.

"SEC. 513. IDENTIFICATION OF STATE-IMPOSED REQUIREMENTS.

"Any State rule or policy imposed on the administration or operation of programs funded by this Act, including any rule or policy based on State interpretation of any Federal law, regulation, or guideline, shall be identified as a State imposed requirement.

"SEC. 514. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.

"No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from 1 State to another State if such relocation would result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

"SEC. 515. STATE ADMINISTRATIVE COSTS.

"For each fiscal year for which a State receives assistance under this Act, the State shall provide from non-Federal sources for costs the State incurs for administration of programs under this Act an amount that is not less than the amount provided by the State from non-Federal sources for such costs for the preceding fiscal year.

"SEC. 516. ADDITIONAL ADMINISTRATIVE PROVISIONS.

"(a) IN GENERAL.—(1)(A) Funds made available under title II shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under title II may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(b) LIMITATION.—Any project assisted with funds made available under title II shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c) PERMISSIBLE SERVICES AND ACTIVITIES.—(1) Vocational education services and activities authorized in title II may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in title II may include placement services for students who have successfully completed vocational education programs.

"(3) Vocational education services and activities described in title II may include programs which involve students in addressing

the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

"(d) ACADEMIC CREDIT.—Each State board receiving financial assistance under title II may consider granting academic credit for vocational education courses which integrate core academic competencies.

SEC. 502. DEFINITIONS.

Section 521 of the Act is amended to read as follows:

"SEC. 521. DEFINITIONS.

"As used in this Act:

"(1) The term 'administration' means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

"(2) The term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety.

"(3) The term 'apprenticeship training program' means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, commonly known as the National Apprenticeship Act, which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

"(4) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a high school exclusively or principally used for providing vocational education in not less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

"(D) the department or division of a junior college, community college or university operating under the policies of the State board and which provides vocational education in not less than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

"(5) The term 'career guidance and counseling' means programs—

"(A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities; and

"(B) which assist such individuals in making and implementing informed educational and occupational choices.

"(6) The term 'community-based organization' means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

"(7) The term 'construction' includes construction of new buildings and acquisition, and expansion, remodeling, and alternation of existing buildings, and includes site grading and improvement and architect fees.

"(8) The term 'cooperative education' means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. Such alternation shall be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(9) The term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

"(10) The term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"(11) The term 'Council' means the National Council on Vocational Education.

"(12) The term 'curriculum materials' means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

"(13) The term 'disadvantaged' means individuals (other than individuals with handicaps) who have economic or academic disadvantages and who require special services and assistance in order to enable such individuals to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals of limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

"(14) The term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by such income;

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate, or

"(C) is described in subparagraph (A) or (B) and is a criminal offender.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

"(15) The term 'economically disadvantaged family or individual' means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

"(16) Except as otherwise provided, the term 'eligible recipient' means a local educational agency, an area vocational education school, an intermediate educational agency, a postsecondary educational institution, a State corrections educational agency, or an eligible institution (as such term is defined in section 232(d)(1)).

"(17) The term 'general occupational skills' means experience in and understanding of all aspects of the industry the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues.

"(18) The term 'high technology' means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

"(19) The term 'individual with handicaps' means any individual who is an individual with any disability (as defined in section 3(2) of the Americans With Disabilities Act of 1990).

"(20) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

"(21) The term 'limited English proficiency' has the meaning given such term in section 703(a)(1) of the Elementary and Secondary Education Act of 1965.

"(22) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. For the purposes of sections 114, 115, 116, 117, and 240, such term shall include a State corrections educational agency.

"(23) The term 'postsecondary educational institution' means an institution legally au-

thorized to provide postsecondary education within a State, a Bureau of Indian Affairs controlled postsecondary institution, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(24) the term 'preparatory services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education or training program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities;

"(25) The term 'private vocational training institution' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution;

"(B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(C) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(D) is accredited—

"(i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause;

"(ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause; or

"(iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards.

For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(26) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(27) The term 'Secretary' means the Secretary of Education.

"(28) The term 'small business' means for-profit enterprises employing 500 or fewer employees.

"(29) the term 'sequential course of study' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education.

"(30) The term 'single parent' means an individual who—

"(A) is unmarried or legally separated from a spouse; and

"(B)(i) has a minor child or children for which the parent has either custody or joint custody; or

"(ii) is pregnant.

"(31) The term 'special populations' includes individuals with handicaps, educationally and economically disadvantaged individuals (including foster children), individuals of limited English proficiency, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions.

"(32) The term 'specific job training' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.

"(33) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(34) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(35) the term 'State corrections educational agency' means the State agency or agencies responsible for carrying out corrections education programs in the State.

"(36) The term 'State council' means the State council on vocational education established in accordance with section 112.

"(37) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(38) The term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(39) the term 'technology education' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy.

"(40) The term 'tribally controlled community college' means an institution which receives assistance under the Tribally Controlled Community College Assistance Act of 1976 or the Navajo Community College Act.

"(41) The term 'vocational education' means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

"(42) The term 'vocational student organizations' means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.

TITLE VI—MISCELLANEOUS

PART A—CORRECTIONAL EDUCATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1990".

SEC. 602. CORRECTIONAL EDUCATION.

(a) IN GENERAL.—Title II of the Department of Education Organization Act is amended by—

(1) repealing section 213;

(2) redesignating section 214 as section 215; and

(3) inserting the following new section 214 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 214. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

"(5) consult with, and provide outreach to, State directors of correctional education and correctional educators; and

"(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correla-

tion with job placement, job retention, and recidivism.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

"(3) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

(b) CLERICAL AMENDMENTS.—The table of contents contained in section 1 of the Department of Education Organization Act is amended by striking the items relating to sections 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.
"Sec. 215. Federal Interagency Committee on Education.".

PART B—MISCELLANEOUS PROVISIONS

SEC. 611. STUDY OF THE DUAL SYSTEM OF VOCATIONAL EDUCATION IN THE FEDERAL REPUBLIC OF GERMANY.

(a) GENERAL AUTHORITY.—The General Accounting Office (in this section referred to as the "Office") shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany, including an analysis of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

(b) CONTENTS.—In studying the West German Dual System of Vocational Education, the Office shall assess—

(1) the ability of such a system to prepare workers for the technical workplace;

(2) the level of academic skills an apprentice in the Dual System acquires;

(3) the effectiveness of combining on-the-job training with classroom instruction;

(4) the participation in apprenticeships by gender and minority status;

(5) the dropout rate of West German students;

(6) the construction and oversight of skill certification tests;

(7) the unemployment rate and relative wage levels of former participants;

(8) the labor mobility of apprentices;

(9) whether such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;

(10) the value and productivity of apprentices to business; and

(11) the direct and indirect costs and benefits to the country, industry, company, and individual that result from the Dual System of Vocational Education.

(c) FACTORS TO BE CONSIDERED.—In assessing the ability of a similar program to be replicated in the United States, the Office shall evaluate such factors as—

(1) existing job apprenticeship programs and their ability to prepare workers for the technical workplace;

(2) the future need for skilled workers and the extent to which job apprenticeship programs could meet such future workforce needs;

(3) the appropriate age or grade level for students to enter job apprenticeship programs (such as secondary students, postsecondary students, or both);

(4) the potential for such programs to reduce the dropout rate, place more qualified workers in the workplace, provide continuing education, including postsecondary opportunities, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

(5) the issues in obtaining labor and management utilization of skills, certification for employee recruitment, promotion, and other purposes, and issues in creating and improving such certification to reliably and validly reflect the changing structure of work in the skills certified;

(6) the training wage appropriate for an apprentice;

(7) the estimated value and productivity of apprentices to business;

(8) the Federal, State, employer, and labor roles in regulating and funding such a program;

(9) the direct and indirect costs and benefits of such a program to the Federal and State governments, industry, the company and the individual; and

(10) the quality and adequacy of Federal and State data on training, including apprenticeships, directly or indirectly provided by employers, including data on the level and distribution of training by industry, firm size, and of labor and management employees.

(d) DEADLINE FOR STUDY.—The study required by subsection (a), together with comments and recommendations, shall be completed and presented to Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act.

SEC. 612. HIGHER EDUCATION ACT.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE VII—EFFECTIVE DATE

SEC. 701. TRANSITION PROVISION.

Upon the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, each State and eligible recipient of Federal financial assistance under a State plan submitted pursuant to section 113 of the Carl D. Perkins Vocational Education Act may expend funds currently available under the Carl D. Perkins Vocational Education Act to—

(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, including the development of a State plan under section 113 of such Act;

(2) develop State and local standards and measures as required by section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act; and

(3) conduct assessments as required by section 116 of the Carl D. Perkins Vocational and Applied Technology Education Act.

SEC. 702. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on July 1, 1991.

(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act (as amended by this Act) shall take effect upon the enactment of this Act.

And the Senate agree to the same.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
TOM SAWYER,
DONALD M. PAYNE,
NITA LOWEY,
GLENN POSHARD,
JOLENE UNSOELD,
NICK RAHALL,
BILL GOODLING,
TOM PETRI,
STEVE GUNDERSON,
STEVE BARTLETT,
HARRIS W. FAWELL,
FRED GRANDY,
PETER SMITH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
THAD COCHRAN,
JAMES M. JEFFORDS,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill joint resolution (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. *Short Title.* The House bill is called the "Applied Technology Education Amendments of 1989." The Senate amendment is called "The Carl D. Perkins Vocational Education Act Amendments of 1989."

The House recedes with an amendment naming the bill "The Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990."

2. *State Councils: Establishment.* (a) The House bill, but not the Senate amendment, requires each State to establish a State human investment council to review Federal programs under the Adult Education Act, the Carl D. Perkins Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973,

and the Wagner-Peyser Act. Under current law, each State is required to establish a State council on vocational education and a job training coordinating council and may establish, at its discretion, a State advisory council on adult education. No councils are currently required under the Rehabilitation Act of 1973 or the Wagner-Peyser Act.

The Senate amendment, but not the House bill, retains the requirement from the current Perkins Act that each State have a council on vocational education.

The House recedes.

3. *State Councils: Duties—Coordination.* The House bill requires that this new human investment council must review the provision of services under the five programs and advise the governor on how to coordinate such services consistent with the provisions of each program.

The Senate amendment clarifies the section of the current law requiring an evaluation at least every 2 years of the coordination between vocational education and JTPA.

The House recedes.

4. *State Councils: Duties—Advice.* The council created by the House bill is also charged with advising the governor on the implementation of State and local performance standards and measures which are newly required to be developed under the House bill.

The Senate amendment adds to the current duties of the State council on vocational education by requiring that it make recommendations to the State board on the State plan. The State council is also authorized to submit a statement to the Secretary of Education commenting on each State's plan. Such comments shall be filed with the State plan.

The House recedes.

5. *State Councils: Membership.* The House bill contains provisions specifying the membership of each State council: 30% from business and industry, 30% from labor and CBOS, 20% from the State agencies administering the programs and from State legislatures and other State agencies, and 20% from local governments and educational institutions and individuals knowledgeable about special needs populations.

The Senate amendment modifies the current council membership by adding a representative of trade organizations and by permitting membership from vocational student organizations and school board members.

The House recedes.

6. *State Councils: Membership Prohibition.* The Senate amendment, but not the House bill, includes a new requirement barring any employee of the State board from serving on the State council.

The House recedes.

7. *State Councils Duties—Corrections Education.* The Senate bill, but not the House amendment requires the council to review corrections education programs.

The Senate amendment but not the House bill, requires the Council to comment on the adequacy of the State plan and its implementation.

The House recedes.

8. *State Councils: Membership Terms.* The House bill, but not the Senate amendment, provides for staggered terms for the membership of the council—with ⅓ being appointed for 1 year, ⅓ for 2 years, and ⅓ for 3 years when members are initially appointed.

The House recedes.

9. *State Councils: Funding.* (A) The House bill provides that the funding for the council will be derived from the Perkins Act, JTPA, and, at the discretion of the State, the Adult Education Act.

The House recedes.

(B) The Senate amendment modifies current law by raising the minimum grant to each State for its council from $120,000 to $150,000 and by raising the maximum grant from $225,000 to $250,000. A 1990 hold-harmless provision is included. Grants to councils in the territories are changed from the current $50,000 to $60,000 for the Virgin Islands, Guam, and Micronesia and to $25,000 for American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Marianas.

The House recedes with an amendment deleting Micronesia and the Marshall Islands and including Palau until the Compact of Free Association with Palau takes effect.

(C) The Senate separately authorizes $10 million for FY 1991, and such sums thereafter.

The Senate recedes with an amendment authorizing $9 million for fiscal year 1991.

(D) The House bill retains the current council formula, and requires the Council to prepare a budget by including funds from other applicable council funds, i.e., Adult Ed. JTPA, etc.

The House recedes.

10. *State Councils:* Effective Date. The House bill makes the state council section effective on July 1, 1990.

The Senate amendment as part of the whole bill sets an effective date of July 1, 1991.

The House recedes.

11. *Interdepartmental Task Force.* The House bill, but not the Senate amendment, requires the creation of an interdepartmental task force on applied technology education and related programs. The membership would consist of the Secretaries of Education, Labor, and Health and Human Services, and such other personnel as appropriate. This task force would examine the data required under the Adult Education Act, Perkins Act, JTPA, Rehabilitation Act, and the Wagner-Peyser Act, examine possible common objectives and standards, and consider integration of research. A report would be annually submitted to the Congress.

The Senate recedes with an amendment for a 2-year report.

12. *Joint Funding.* The House bill, but not the Senate amendment, permits States to use funds from any of the five programs in jointly-funded programs if such programs meet the requirements of each Act, and are used to supplement and not supplant funds provided from non-Federal sources.

The Senate recedes with an amendment limiting the provision to the Perkins, JTPA, and Wagner-Peyser Acts for coordinated services to the same populations.

13. *Uniform Criteria.* The House bill, but not the Senate amendment, amends JTPA to make eligible for services as disadvantaged or handicapped individuals, any individual who is determined to be disadvantaged under the Perkins Act or entitled to a free appropriate public education under the Education of the Handicapped Act.

The House recedes.

14. *New Name.* The House bill, but not the Senate amendment, renames the Perkins Act as the Perkins Applied Technology Education Act and substitutes for the term "vocational education" the new term "applied technology education" wherever it appears in the Act.

The House recedes with the same amendment as in #1.

15. *Purpose.* The House bill, but not the Senate amendment, revises the statement of purpose of the Perkins Act by emphasizing that the United States will become more competitive in the world economy through developing more fully the academic and occupational skills of all segments of the population.

The Senate recedes.

16. *Authorization Basic State Grants.* The House bill authorizes $1 billion for fiscal year 1990 for titles I (other than section 112), II and IV (other than Part E); and for title III the following:

$15 m. for Part A
$40 m. for Part B
$30 m. for Part C
$20 m. for Part D
$200 m. for Part E
$100 m. for Part F

Also authorized is $8 million for Title I section 112 and $10 million for Part E, Title IV—for a total of $1.4 billion. Such sums are authorized for fiscal years 1991 through 1995.

The Senate amendment authorizes $1.5 billion for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for titles I, II, III, and IV.

The Senate recedes with an amendment setting a total of $1.6 billion for the Act for fiscal year 1991 allocated as follows:

	Amount
Basic State grant (billions)	$1,258.15
CBO's (millions)	$15
Consumer education (millions)	$38.5
Guidance (millions)	$20
Business partnerships (millions)	$10
Tech-prep (millions)	$125
Supplementary State grants for facilities and equipment (millions)	$100
Bilingual (millions)	$10
State Advisory councils (millions)	$9
National Advisory Council	$350,000
Community Education—Lighthouse schools (millions)	$10
Tribally controlled post-secondary voc. institutions (millions)	$4

Under Section 3, authorizations are specified for each of the separate programs contained in Title III, in addition to the State advisory council and bilingual education. The managers want to make very clear that authorizations of appropriations for each of these programs in the fiscal years 1992 through 1995 are contained in the overall authorization of appropriations under Section 3(a), which is the overall ceiling for Titles I, II, III and IV. Such sums as may be necessary are authorized to fiscal years 1992 through 1995 under this subsection, and this authorization would therefore apply to each of the separate programs for these years.

17. *Authorization: Community-Based Organizations.* The House bill authorizes $15 million for fiscal year 1990 and such sums for fiscal years 1991 through 1995 for community-based organizations.

The Senate amendment authorizes $14 million for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for community based organizations.

The Senate recedes with an amendment setting $15 million for fiscal year 1991.

18. *Authorization: Consumer and Homemaking Education.* The House bill authorizes $40 million for fiscal year 1990 and such

sums for fiscal years 1991 through 1995 for consumer and homemaking education.

The Senate amendment authorizes $37 million for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for consumer and homemaking education.

The House recedes with an amendment setting $38.5 million for fiscal year 1991.

19. *Authorization: Guidance and Counseling.* The House bill authorizes $30 million for FY 1990 and such sums for FY 1991-1995 for guidance and counseling.

The Senate amendment does not contain a separate authorization for guidance and counseling but instead folds the separate authorization into the National Demonstration Programs under Title IV and permits funds under the basic State grant to be used for that purpose.

The Senate recedes with an amendment setting $20 million for fiscal year 1991, subject to a trigger level of $1 billion in funding for the basic State grant.

20. *Authorization: Business-Education-Labor Partnerships* The House bill authorizes $20 million for FY 1990 and such sums for FY 1991-1995 for business-education-labor partnerships.

The Senate amendment does not contain a separate authorization for business-education-labor partnerships; instead creates a new business and labor partnership under the National Demonstration Programs under Title IV.

The Senate recedes with an amendment setting $10 million for fiscal year 1991, subject to a trigger level of $1 billion in funding for the basic State grant.

21. *Authorization: Tech-Prep Education.* The House bill authorizes $200 million for FY 1990 and such sums for FY 1991-1995 for tech-prep education.

The Senate amendment does not have a separate authorization for tech-prep but instead reserves 5% of each State's basic grant for this purpose.

The Senate recedes with an amendment setting $125 million for fiscal year 1991.

22. *Authorization: Supplemental Grants.* The Senate amendment, but not the House bill, authorizes $100 million for FY 1991 and such sums for FY 1992-1995 for supplemental assistance grants to needy areas.

The Senate recedes.

23. *Authorization: National Assessment.* The House bill reserves a portion of the Secretary's funds for the national assessment of vocational education.

The Senate amendment authorizes $3 million for FY 1991 and 1992 for the national assessment.

The Senate recedes with an amendment permitting funding for the national assessment to be provided from the funds reserved for research under national programs (Part A of Title IV).

24. *Authorization: Improvement of Facilities and Acquisition of Equipment.* The House bill, but not the Senate amendment authorizes $100 million for FY 1990 and such sums for FY 1991-1995 for improvement of facilities and acquisition of equipment.

The Senate recedes with an amendment setting $100 million for fiscal year 1991.

25. *Authorization: Hold Harmless.* The House bill, but not the Senate amendment requires that the appropriations for the basic State grant for FY 1990 must equal or exceed the amount necessary to carry out activities in the preceding fiscal year if sums are to be authorized for guidance and counseling, business-education-labor partnerships, tech-prep, and facilities and equipment.

The Senate recedes with amendment for a $1 billion trigger for guidance and counseling, business-labor-education partnerships, and community education-lighthouse school programs.

26. *Authorization: State Councils.* The House bill authorizes $8 million in FY 1990 and such sums for FY 1991-1995 for the new human investment council.

The House recedes with an amendment setting $38.5 million for fiscal year 1991.

The Senate amendment authorizes $10 million for FY 1991 and such sums for FY 1992-1995 for State councils on vocational education.

The Senate recedes with an amendment setting $9 million for fiscal year 1991.

27. *Authorization: Bilingual.* The House bill authorizes $10 million in FY 1990 and such sums for FY 1991-1995 for bilingual vocational programs.

The Senate amendment authorizes $7 million in FY 1991 and such sums for FY 1992-1995 for bilingual vocational programs.

The Senate recedes with an amendment setting $10 million for fiscal year 1991.

28. *Authorization: National Advisory Council on Vocational Education.* The Senate amendment, but not the House bill, authorizes $350,000 for FY 1991 and $200,000 (subject to a special limitation) for FY 1992 for the National Council.

The House recedes with an amendment deleting 1992.

29. *Authorization: National Programs.* For national programs, the House bill reserves 2% of the appropriations made under the Act. The Senate amendment reserves 2.75%.

The House recedes with an amendment setting 2.5% because this percentage reflects more accurately the current appropriations.

30. *State Allotment.* The House bill, but not the Senate amendment, modifies the provision guaranteeing each State no less than one-half of 1% of the appropriation by placing a limitation on each State of no more than an amount calculated by multiplying the number of individuals in the State counted for the formula by 150% of the national average per pupil payment. However, no State would receive less than it received in FY 1989.

The Senate recedes with an amendment for a fiscal year 1991 hold harmless.

31. *State Allotment: Indian Programs.* The State amendment, but not the House bill, increases from 1½ to 2% the amounts reserved for Indian programs.

The Senate recedes with an amendment clarifying that 1¼ is for Indian programs and ¼$ for native Hawaiians.

32. *State Allotment: The Territories.* The Senate amendment, but not the House bill, creates a new section which includes a reservation of .25% of the amounts in the bill for the Territories, with the exception of the Virgin Islands—which is kept in the state basic grant formula.

The House recedes with an amendment reserving .2%.

33. *The Territories.* The Senate amendment, but not the House bill, removes Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands from Section 101(c)(1)(B).

The House recedes.

34. *The Territories: Minimum Allotment.* The Senate amendment, but not the House bill, deletes the minimum allotment ($200,000) for the territories.

The House recedes with an amendment setting the minimum allotment only for the Virgin Islands and clarifying that the small State minimum does not apply.

35. The Senate amendment, but not the House bill, contains a clarifying technical amendment regarding the outlying areas.

The House recedes.

36. *Within State Allocation.* (a) The House bill permits a State to reserve a maximum of 5% of the basic State grant for State administration and sets a minimum of $250,000 per State. The Senate amendment also reserves a maximum of 5% for State administration (25% of a maximum of 20%) but does not contain any minimum. The Senate amendment, but not the House bill, requires States to match dollar for dollar the funds reserved for State administration.

The Senate recedes on 1st and 2nd sentences. The House recedes on the 3rd sentence with an amendment requiring States to use the 5% State administration funding to develop State plans; review/approve local applications; administer funds; monitor and evaluate program effectiveness; provide technical assistance; assure compliance with all aspects of law, including required services and activities for individuals who are members of special populations. The managers intend that the matching requirement be applied to overall, not line-by-line, State administration expenditures. For example, the $60,000 reserved for the State sex equity coordinator must be matched, but the matching funds need not be used for such coordinator. For further information regarding this provision, see item #39.

(b) The House bill requires that 10% of the basic State grant be reserved for the program for single parents, homemakers, displaced homemakers and for the sex equity program. The Senate amendment reserves 4% (20% of the maximum of 20%) of the basic State grant for sex equity programs and reserves for the displaced homemakers program at least 10.5% of the amount a State reserves for secondary and postsecondary programs. The Senate amendment requires that the funds reserved for the displaced homemaker program be taken from the amount a State set aside for postsecondary programs.

The Senate recedes with amendments setting 10½% for both programs, of which no less than 7% is for the displaced homemakers and no less than 3% for sex equity, and providing for a 1990 hold harmless for both programs which will be ratably reduced if sequestration or a decline in appropriations occurs.

37. *Within State Allocation—Partnerships, Standards Development.* The House bill permits a State to reserve up to 5% of the basic State grant for business-education-labor partnerships, the development of State performance standards, the training and retraining of staff, at least one program for incarcerated youth or criminals, pre-service and in-service training, and support of student organizations.

The Senate amendment, reserves 15% (75% of 20%) of the basic State grant for State programs and State leadership.

The House recedes setting 8½% for discretionary State-level activities.

38. *Within State Allocation—Tech-Prep.* The Senate amendment, but not the House bill, reserves 5% of the basic State grant for tech-prep programs. The House bill separately authorizes these programs for $200 million in FY 1990.

The Senate recedes on the reservation and instead $125 million is authorized.

39. *Within State Allocation—State Administration Match.* The Senate amendment, but not the House bill, requires States to

match dollar-for-dollar the funds reserved for State administration.

The House recedes with an amendment requiring the sex equity coordinator's salary to come from the 5% for administration. The managers intend that this provision lead to overall, not line item, matching for State administration. Also included is the same amendment as in #36(a).

40. *Within State Allocation—Secondary/Postsecondary Split.* The Senate amendment, but not the House bill, requires each State to fund secondary and postsecondary programs in accordance with a range of permissible percentages. (Of the 75% of the basic State grant reserved for title II, 65%-75% would be reserved for secondary programs and 25%-35% would be reserved for postsecondary programs.)

The Senate amendment includes a hold harmless phase-in of this requirement (20% in FY 1991, 36% in FY 1992, and 51% in FY 1993) and also permits a waiver for states (which is described later).

The Senate recedes with an amendment which provides that, if a State uses less than 15% of Title II, Part C funds for either secondary or postsecondary programs, it can allocate such funds through competitive grants—provided that better targeting results.

41. *Within State Allocation—Title II Programs.* The Senate amendment reserves 75% of the basic State grant for basic programs under part C of title II. The House bill applies the remainder of allotments not used for administration (5% maximum), sex equity/displaced homemakers (10%), and special programs (5% maximum) to title II basic programs.

The Senate recedes with an amendment reserving no more than 25% for State activities (administration, displaced homemakers, sex equity, corrections, and discretionary programs) and directing at least 75% to local uses.

42. *Indian and Hawaiian Programs.* The Senate amendment, but not the House bill, increases the setaside for Indian and Alaska Native programs to 2% and changes the distribution of funds. (See Note 31.)

The House bill adds a provision that the Secretary is to put no conditions on Indian or Alaska Native grantees not placed upon States and is to give special consideration to grant applications involving tribal economic development.

The Senate recedes with an amendment clarifying requirements administered by the Department of Education.

43. *Indian and Hawaiian Programs—Distribution of Funds.* The Senate amendment, but not the House bill, changes the distribution of the set-aside for Indians and native Hawaiians.

The Senate recedes.

(a) Seven-twelfths of the 2% is reserved for grants or contracts with Indian tribes and tribal organizations. Special consideration is given to applications from tribally controlled community colleages which meet one of three accreditation requirements.

The Senate recedes on the first sentence. The House recedes on the second sentence. The managers allow qualified schools operated by the Bureau of Indian Affairs to compete for grants under this section. Such applications may be made either as individual schools, or in consortia made up of a number of such schools or such schools, and other entities. Such applications are to be considered in the same fashion as all other applications. However, if a B.I.A. operated school or consortia is successful, the managers have mandated a minimum grant. This should be taken into consideration either in the initial application or in a request by the Department for an amendment to the application, which shall involve activities in support of the initial project. Tribally operated schools, whether contract or grant, would continue to qualify as tribal organizations. With respect to administration of grants or contracts with successful B.I.A. operated schools, the Secretary of Education shall enter into an arrangement with the Secretary of the Interior for the transfer of funds to the Secretary of Interior/Assistant Secretary of B.I.A. for administration through the B.I.A.'s cost-accounting system, provided that the B.I.A. shall pass through to the successful school/consortia the entire amount of money, in exactly the form and with the exact conditions as are associated with the successful grant and the B.I.A. shall take no administrative or handling or indirect cost funds from the grant/contract for the handling of such transfer. The Secretary of Education shall conduct such evaluation and receive all other grant documents or products directly from the grantee.

43. (b) One-twelfth of the funds reserved under this section will go for grants to BIA secondary schools to provide voc ed programs for secondary students attending the school, with a minimum grant size of $35,000. The bill outlines the distribution of any excess funds

The Senate recedes on 1/12. The House recedes on the $35,000 minimum.

43. (c) Two-twelfths of the funds reserved under this section will go for grants to two or more schools of vocational-technical education, which are: a) governed by a majority of trustees who are Indians, b) in operation for five or more years, c) enroll a minimum of 100 students of which a majority are Indians, and d) nationally accredited, or a candidate for accreditation for at least 5 years. If any funds from the reservation are left over, the Secretary may award grants first to tribally-controlled colleges and, if any funds are still remaining, to Indian tribes and organizations. A minimum grant of $50,000 is specified.

The Senate recedes.

43. (d) Two-twelfths of the funds are reserved for contracts with organizations serving native Hawaiians.

The Senate recedes with an amendment clarifying that 1/4% is for programs for native Hawaiians.

44. *The Territories.* The Senate amendment, but not the House bill, adds a new section . . . which requires that the Secretary reserve funds for the territories. Guam & Micronesia will receive $500,000, the amount provided to Guam in FY 1990. American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Marianas will receive $190,000, the amount provided to American Samoa in FY 1990 for vocational education programs. From the remaining funds, the Secretary shall make a grant to the Center for the Advancement of Pacific Education in Hawaii for vocational education and training grants in the territories for teacher and counselor training, curriculum development, and improving secondary and postsecondary programs. This Center may use no more than 5% of the funds for administration of the grant.

The House recedes with an amendment of $500,000 for Guam and $190,000 each for American Samoa, Commonwealth of the Marianas and Palau, but Palau may only receive funding until it ratifies any compact of free association. Additional amendments affect the Center on Pacific Education by limiting funds to direct educational services permitting CAPE to make grants as well to the Marshall Islands and the Federated States of Micronesia, and clarifying any successor agency as the one designated as the Pacific Regional Laboratory. The managers intend that the allocation for Palau be granted directly to the Micronesian Occupational College (MOC) in Koror.

45. *State Administration—Consultation with Business.* The Senate amendment, but not the House bill, requires the State board to consult not only with the State council, but also with business and industry in planning, administering, evaluating, and coordinating programs.

(The House bill, but not the Senate amendment, substitutes the human investment council for the State council under state administration.)

The House recedes with an amendment including labor among the groups to be consulted.

46. *State Administration—Sex Equity Review.* The Senate amendment, but not the House bill, requires the State board to review and comment upon plans of local educational agencies to ensure that the needs of women and men for training in non-traditional jobs are met.

The House recedes with an amendment including all eligible recipients and deleting language requiring the State board to recommend programs for funding.

47. (a) *State Administration—Handicapped Children.* The House bill requires each State to assure access to programs for students with handicaps who are covered by the Education of the Handicapped Act or by Section 504 of the Rehabilitation Act, are not less than 12 years of age, and are not older than the upper-age limit established by the State for eligibility for special education services.

The House recedes.

(b) The Senate amendment requires each State to designate the head of the State office for the education of the handicapped to review all local plans to assure that students are receiving vocational services required by individual educational programs, to ensure that local agencies have submitted assurances of compliance with Section 504 of the Vocational Rehabilitation Act and the Education of the Handicapped Act, to review all local plans to ensure that handicapped children have been identified, are enrolled in programs, have had their needs assessed, and adequate plans have been developed for supplementary services, and to evaluate local plans.

The House recedes with amendments setting review of all or a representative sample of applications and deleting evaluations.

48. *State Administration—Chapter 1.* The Senate amendment, but not the House bill, requires each State to assign the Chapter 1 Coordinator to review local plans to ensure that disadvantaged students have been identified and served.

The House recedes with same amendments as #47(b).

49(a). *State Administration—LEP.* The Senate amendment, but not the House bill, requires each State to designate the head of the State agency responsible for programs for students with limited English proficiency to review local plans to assure that such students have been identified and served.

The House recedes with same amendments as #47(b).

49(b). *State Administration—Parents.* The Senate amendment, but not the House bill, requires the State board to consult with parents, students, and teachers in the planning of vocational education programs.

The House recedes with an amendment to involve these groups in public hearings.

50. The House bill, but not the Senate amendment, amends current law regarding the duties of the Council to conform with the State Human Investment Council.

The House recedes.

51. *State Plans—NOICC.* The House bill, but not the Senate amendment, requires the State to use information gathered by the National Occupational Information Coordinating Committee in developing the State plan.

The Senate recedes with an amendment requiring that information gathered by the NOICC be used in the State assessment.

52. (a) *State Plans—Special Population.* The House bill requires the States to assess the responsiveness of programs to the special needs of students who are members of special populations.

The Senate recedes blending with (b).

(b) The Senate amendment requires that the State plan provide assurances that eligible recipients will comply with the requirements of the bill, including a description of the manner in which the State will comply with criteria required for programs for special population. The plan must also provide assurances that the State board will develop measurable goals and acoountability measures for meeting the needs of special populations and will adequately monitor programs serving these populations. (The plan must describe the methods of assessment of each special population and report the number of individuals in each category for each occupationally specific program.)

The House recedes blending with (a).

53. *State Plans—Submissions.* The Senate bill, but not the House amendment, retains the requirement for submission to the Secretary of an initial 3-year plan and 2-year plans thereafter. The planning periods are to be coterminous with planning periods required under JTPA.

The House recedes.

54. *State Plans—Requirement.* (a) The House bill requires each State in developing the plan to assess the capability of local programs to provide students with strong experience and understanding of all aspects of the industry the students are preparing to enter and strong development and use of problem-solving skills and basic skills.

The Senate recedes with an amendment inserting "to the extent practicable."

(b) The Senate amendment requires each State to assure that the goal of each program is to give a student experience in, and understanding of, all aspects of the industry in which the student is preparing to enter.

The Senate recedes.

55. *State Plans—Consultation.* The Senate amendment, but not the House bill, requires the State board to meet with and utilize the State Council prior to development of the State plan. The board is also required to conduct public hearings to allow interested parties to present views and make recommendations. A summary of these recommendations must be submitted with the State plan.

The House recedes.

56. *State Plans—Assessment.*—(a) The Senate amendment, but not the House bill, adds a new requirement that States conduct a State assessment in developing the State plan, and describe how the planned use of funds reflects the assessment.

The House recedes.

(b) The House bill, but not the Senate amendment, requires the States to assess the responsiveness of programs to the special needs of students who are members of special populations.

The Senate recedes with an amendment to blend with (a) above.

(c) The House bill, but not the Senate amendment, revises the current law to emphasize that academic, occupational, training, and retraining needs must be addressed.

The Senate recedes.

(d) The Senate amendment, but not the House bill, revises the assurances included in the State plan to require the State to develop measurable goals and accountability measures for special populations and to provide for special populations and to provide adequate monitoring of local programs to ensure that such goals have been met. The Senate amendment also requires each State to set forth the planned distribution of secondary school funds to local entities.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations. Different standards and measures may be established for secondary and postsecondary or adult programs.

57. *State Plans—Assurances/Private Schools.* The Senate amendment requires that the State plan include assurances that private elementary and secondary school students who are individuals described in Section 223 be permitted to participate in vocational education programs, to the extent consistent with other provisions of the Act.

The House recedes with an amendment deleting elementary school students.

58. (a) *State Plans—Assurance/Distribution of Funds.* The House bill requires that the State provide assurances that it will distribute at least 80% of the funds available for title II to local educational agencies and postsecondary institutions.

The Senate recedes with an amendment setting a minimum of at least 75%.

(b) The Senate amendment requires that the State plan set forth the planned distribution of secondary school funds to local entities. The Senate amendment also requires that the State plan provide assurances that the State will comply with provisions relating to the within state reservation of funds.

The House recedes with an amendment including the estimated distribution of funds to all eligible recipients.

59. *State Plans—Assurances/Application Approval.* The Senate amendment, but not the House bill, requires that the State plan set forth the criteria the State board will use in approving applications of eligible recipients.

The House recedes.

60. *State Plans—Assurance/State Reserve.* The Senate amendment, but not the House bill, requires that the State plan set forth the criteria for spending the 20% reserve for State administration and leadership activities.

The House recedes with an amendment requiring that the State plan set for the criteria for spending funds reserved for displaced homemakers, sex equity, state-wide discretion, State administration, and corrections programs.

61. *State Plans—Assurance/Special Reserve.* The Senate amendment, but not the House bill, requires that the State plan include assurances that the State will match the 10% reserve it is permitted to redistribute under section 101(c).

The Senate recedes.

62. *State Plans—Assurances/Job Openings.* The Senate amendment, but not the House bill, requires that the State plan describe how funds expended for occupationally specific training will be used only for occupations in which job openings are projected or available.

The House recedes with an amendment adding "based on labor market analysis". The managers intend that this analysis not be limited to the area in which the school is located.

63. *State Plan—Measures of Performance.* The House bill requires States to develop and implement a system of standards for performance and measures of performance. The Senate amendment requires States to develop measures of effectiveness of programs for special populations, whereas current law only requires such measures for programs for the handicapped.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

64. *State Plans—Assurances/Performance Evaluations.* The Senate amendment, but not the House bill, requires each State to describe how it is implementing performance evaluations.

The House recedes.

65. (a) *State Plans—Assurances/Performance Standards.* The House bill requires States to develop and implement a system of standards for performance and measures of performance.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

(b) The Senate amendment requires States to develop measures of effectiveness of programs for special populations (whereas current law only requires such measures for programs for the handicapped). In addition, the Senate amendment requires the State to measure program effectiveness based on occupational assessment skills achievement and linkages to labor and jobs.

The Senate recedes with the same amendment as in 65(a).

66. (a) *Guidance and Counseling.* The House bill, but not the Senate amendment, requires States to spend the same amount for guidance and counseling as they did in 1988.

The House recedes.

(b) The Senate amendment, but not the House bill, requires States to provide leadership, supervision, and resources in this area.

The House recedes.

67. (a) *Supplement, Not Supplant.* The House bill includes an addition to the supplement but not supplant provisions to require that schools receiving assistance re-

ceive at least the same amount of funding per student from non-Federal sources as is received by other schools and to require that schools receiving assistance shall not receive fewer services under other programs.

The Senate recedes with amendment requiring comparable services taken as a whole.

(b) The Senate amendment requires that the State plan provide assurances that Federal funds will be used to supplement and not supplant such State or local funds.

The House recedes with an amendment including supplement, not supplant, language in the administrative provisions contained in Title V (Sec. 516).

68. *Appeals Procedure.* The House bill, but not the Senate amendment, requires each State to establish procedures by which an area school may appeal decisions adverse to its interests with respect to program assistance under the Act.

The Senate recedes with an amendment including local educational agencies and intermediate educational agencies.

69. *Section 116.* The House bill, but not the Senate amendment, requires each State to provide assurances that it will carry out the provisions of section 116, dealing with state improvement plans.

The Senate recedes.

70. *State Plans—Assurances/Guidance & Counseling.* The Senate amendment, but not the House bill requires that the State plan provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs. As a component of those assurances, the State must *assess and report on* the degree to which aggregate guidance and counseling expenditures are not less than such expenditures in FY 1988.

The House recedes. The managers intend that this provision will result in States reporting in the State plan on expenditures for guidance and counseling. Although the assessment is to be done annually, reporting is required only as part of the State plan.

71. *State Plans—Approval.* The Senate amendment, but not the House bill, adds the Governor to the list of entities (State legislature and State job training coordinator) to receive the state plan at least 60 days before submission to the Secretary.

The Senate recedes.

72. (a) *State Plans—Consultation.* Both the House bill and the Senate amendment add a requirement that the State board develop the secondary and postsecondary portions of the State plans after consultation with the State agencies responsible for secondary and postsecondary education.

The Senate recedes.

(b) The House bill requires the State agencies responsible for the supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary applied technology education all be consulted if they are separate.

The Senate recedes.

(c) The Senate amendment only requires consultation with the State agency responsible for community colleges and for secondary education.

The Senate recedes.

73. *State Plans—Consultation/Tech-Prep.* The Senate amendment, but not the House bill requires that the State board develop the portion of the State plan relating to the reservation of funds of tech-prep education after consultation with appropriate State agencies.

The House recedes with an amendment deleting the setaside but requiring consultation for any tech-prep funding.

74. *State Plans—Approval by Secretary.* Both the House bill and the Senate amendment require that the State plan be submitted to the Secretary by May 1. The Secretary must approve qualified plans within 60 days of their submission. The House bill includes the development and implementation of performance standards, and the Senate amendment refers to performance evaluations and improvements.

The Senate recedes.

75. *Local Application.* The House bill retains the current local application under Title I, Part B—State Organization and Planning and adds to the list of requirements for local applications several new items.

The Senate amendment moves the local application to Title II, Part C, Subpart I—Secondary School Programs and also adds new requirements.

The House recedes on placement of section in law, including it in Title II, Part C, Subpart 3.

(a) The House bill require that local applications include a description of how the State performance standards and measures for applied technology education programs will be applied and implemented—in consultation with the private industry council under JTPA.

The Senate amendment requires that local applications include a description of the performance evaluation standards the applicant will use to measure its progress. In addition, the applications must describe methods to coordinate vocational education services with relevant programs under JTPA—including cooperative arrangements established with JTPA PICs in order to avoid duplication and expand accessibility.

The House recedes.

(b) The House bill requires that local applications include a description of how access to programs of good quality will be provided through outreach programs to students who are economically disadvantaged, handicapped, foster children, or are limited English proficient.

The Senate amendment requires that local applications ensure full and equitable participation in a vocational education program of quality.

The Senate recedes with amendment striking "foster children" and including after the term "disadvantaged" the following "(including foster children)".

(c) The House bill requires that local applications include a description of how applied technology education programs for handicapped students will be monitored.

The Senate amendment includes new requirements that local applications contain: (i) a report on the number of special population individuals being served, (ii) a description of how the needs of special populations will be assessed and of the planned use of funds to meet such needs, (iii) identification of the planned use of resources allocated to meet those needs, and (iv) assurances that programs will be carried out according to the criteria for programs for each special population. The applications must also assure that parents and special population students have been involved in developing programs.

The House recedes.

(d) The Senate amendment, but not the House bill, requires the local recipient to demonstrate that it has met the needs of special populations before school-wide use of curriculum development and program improvement activities is permitted.

The Senate recedes.

(e) The Senate amendment, but not the House bill, requires that local applications include a description of coordination with community-based organizations.

The House recedes.

(f) The Senate amendment, but not the House bill, requires that the special needs coordinator review and comment on the assurances in the application regarding services to special populations.

The Senate recedes.

(g) The House bill, but not the Senate amendment, requires the local recipient to consider the occupational needs of the area being assisted.

The Senate recedes.

(h) The House bill, but not the Senate amendment, requires the local recipient to describe how funds will first be used to serve schools with the greatest concentration of special population students and which have programs that are in greatest need of improvement.

The Senate recedes with an amendment establishing the purpose of Perkins funds as being to improve programs at a limited number of sites or in a limited number of subject areas with the full participation of members of special populations. Recipients must annually choose sites and subject areas giving a priority to schools or institutions with the highest concentrations of special populations. Funds may only be used to improve programs that are of such size, scope, and quality as to be effective, integrate academic and vocational education, and provide equitable participation for special populations. Activities, such as tech-prep education, upgrading of curriculum, and in-service training may be supported with funds. The managers emphasize that the activities outlined in Section 235(c)(2) are intended to be illustrative. Other activities which meet the requirements of Section 235(c)(1) may be funded.

(i) The House bill, but not the Senate amendment, requires local recipients to provide a program in which academic and occupational disciplines will be integrated so that students receive competency in both, in which coherent sequence of courses leading to a job skill is offered, in which students are encouraged through counseling to pursue a coherent sequence of courses, in which special population students receive supportive services, which are of sufficient size, scope, and quality to bring about improvement, and which co-operate with the sex equity program.

The Senate recedes.

(j) The Senate amendment contains somewhat similar requirements in its provisions for the uses of funds for secondary and postsecondary recipients.

The Senate recedes.

(k) The House bill, but not the Senate amendment, requires each local educational agency working in a consortium to describe how funds have been provided to area schools in the consortium according to such schools' relative shares of special population students.

The Senate recedes with an amendment which provides that funds must be allocated directly to an area school if an LEA and an area school form a consortium and if the area school serves an approximately equal or greater number of economically disadvantaged and disabled students. Diverse types of data can be used for these purposes. Also, if an LEA allocation is not suffi-

cient to provide a quality program, the LEA is encouraged to transfer funds to an area school.

76. *Local application—waiver.* The House bill, but not the Senate amendment, requires that the local application include any other appropriate information that the State may require.

The House recedes.

77. *State Improvement Plans.* The House bill, but not the Senate amendment, requires each State to review all programs in secondary and postsecondary institutions to determine whether such programs coordinate academic and occupational education, offer coherent sequences of courses, counsel students, lead to academic and occupational competencies, provide access to good programs for special population students, and provide updated equipment and materials. A State may fulfill this requirement either in fiscal 1991 or 1992.

The House recedes.

78. *Standards and Assessments.* The House bill requires States *receiving* funds under the Act to develop State-wide systems of standards and measures of performance for technical education programs within two years of enactment.

The Senate amendment requires States *desiring* funding under Title II to develop criteria for and evaluate effectiveness of programs under Title II. The State assessment must be completed no later than the beginning of the 1993 school year.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations; also an amendment which requires each eligible recipient with full participation by representatives of special populations to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students, and all others involved.

Standards and Assessments—Measures (a) *Gains.* The House bill requires that the system of standards and measures of performance include measures of learning gains and competency gains.

The Senate amendment requires that program criteria and evaluation include student progress in the achievement of basic academic skills.

The Senate recedes with same amendments as in #78.

(b) *Performance.* The House bills requires that the system include one or more of the following measures of performance: competency attainment, job or work skill attainment or enhancement, retention in/completion of secondary school or its equivalent, articulation into additional training, education or military service.

The Senate amendment requires that program criteria include student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in all aspects of the industry the student is preparing to enter.

Same as numbers 78 and 78(a).

(c) *Special Populations.* The House bill requires that the system include incentives or adjustments to encourage service to targeted groups or special populations. It must also include performance levels for handicapped students, commensurate with their ability levels and IEPs.

The Senate amendment requires that program criteria include the program's ability to meet the needs of special populations.

The Senate recedes with an amendment requiring each eligible recipient, with full participation by representatives of special populations, to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students and all others involved.

(d) *Coordination.* The House bill requires that the system include procedures for utilizing existing resources and methods developed in other programs receiving federal assistance.

The Senate amendment requires that the program criteria include any other measures the State deems necessary.

The House recedes and the Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

(e) *Standards and Assessments—Consistency with Local Criteria.* The Senate amendment, but not the House bill, requires that the State make every effort to develop criteria that are consistent with local criteria. If after two years the State determines that the local recipient is not making progress, then the State must work with that recipient to modify its program.

The Senate recedes with amendments requiring each State to develop and implement a State-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies: also requires a report to show that standards and measures are unbiased to special populations. The Senate also recedes on an amendment requiring that if student progress has not been made after one year of implementation of the plan by the LEA, the State board and LEA will work jointly to develop a plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State board and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year.

79. *State Assessment.* (a) The Senate amendment, but not the House bill, requires each State to develop measurable objective criteria and standards for programs. Wide consultation is required and such criteria must be used by school year 1993.

The Senate recedes with same amendment as in 78(d). The House recedes with amendment to change date to 1991.

(b) The Senate amendment further provides that such criteria must include several factors, such as student improvement in basic skills. Within each State, the head of the special education unit, the sex equity coordinator, and the administrator of limited-English proficiency programs must each develop data collection procedures appropriate to special populations.

The Senate recedes.

(c) The Senate amendment further requires each State board to assess improvement in programs using six specific criteria, including the integration of academic and vocational education.

The House recedes with an amendment adding additional criteria.

80. *Standards and Assessments—Technical Assistance.* The House bill, but not the Senate amendment, requires the Secretary to provide technical assistance to the States regarding the development of a system of standards and measures of performance.

The Senate recedes.

81. *Standards and Assessments—Report.* The House bill, but not the Senate amendment, requires the Secretary to report to Congress within four years regarding the status of each State's system of standards for performance and measures of performance developed and any effects due to the implementation of same.

The Senate recedes with same amendment as in 78(d).

82. *State Assessment—Criteria.*—The Senate amendment, but not the House bill, requires that the State assessment include criteria relating to: (a) student improvement in basic skills; (b) gains in learning and educational outcomes; (c) competency in all aspects of the industry the student is preparing to enter; (d) student improvement in life skills, problem solving, and career decision making; (e) the ability of recipients (under Title II, subpart 2 of part C) to meet the needs of special populations; (f) the quality of vocational education in terms of pertinence of programs; the technological and educational capacity of vocational curricula, equipment, and instructional materials to meet the increased demands of the workplace; capability to provide training to address the changing content of jobs; capability of programs to give experience in all aspects of the industry and to provide job placements; and measurement of the state-of-the-art quality of vocational education and (g) setting measurable goals to meet the needs of special populations.

The House recedes with an amendment requiring the State to develop measurable objective criteria to assess program quality including integration of academic and vocational education, sequential course of study, pertinence of programs to the workplace, and the ability of eligible recipients to meet the needs of special populations.

83. *State Assessment—Data Collection/Special Populations.* The Senate amendment, but not the House bill, requires the head of the special education office, the sex equity administrator, the Chapter 1 Coordinator, and the administrator of LEP programs to develop data collection procedures (including program services and outcomes as well as individuals being served) appropriate to the special populations being served.

The Senate recedes.

84. *State Assessment—Improvements Needed.* The Senate amendment, but not the House bill, requires each State board to assess improvements needed in programs. Factors in the assessment include: (a) academic/vocational education integration, (b) all aspects of the industry, (c) sequential course of study, (d) increased student job placement, (e) increased linkages between secondary and post-secondary institutions, (f) assistance to special populations; and (g) raising the quality of programs in schools with high concentrations of poor and low achieving students.

The House recedes with same amendment as #82.

85. *State Assessment—Improvements Needed/Timetable.* The Senate amendment,

but not the House bill, requires the State board to complete an assessment of improvements needed pursuant to a timetable consistent with the State plan.

The House recedes with an amendment requiring the assessment to be completed six months after date of enactment.

86. *State Leadership.* The House bill permits a State to reserve up to 5% of the basic State grant for business-education-labor partnerships, the development of State performance standards, the training and retraining of staff, at least one program for incarcerated youth or criminals, preservice and inservice training, and support of student organizations.

The Senate amendment adds a new section which allows a State to reserve a maximum of 15% of the basic State grant for state programs and state leadership activities. State programs authorized may include the following activities: training and retraining programs for teachers, administrators, and counselors; curriculum development and dissemination and field testing; programs in technology education, and supporting student vocational organizations.

The House recedes with an amendment requiring that the State shall use the 8.5% allotted for State leadership activities for staff development (both in-service and preservice training for vocational and academic teachers working in vocational education, counselors, CBO personnel, corrections educators, special emphasis on training of minority teacher); curriculum development (integration of vocational and academic training, and sequential courses of study in state-of-the-art programs and techniques for integration); assessment, performance standards and measures, program improvement, and accountability. Also the State may use these funds for promoting business, education, industry and labor, CBO or interagency partnerships; techprep education, data collection, support of vocational student organizations, and programs in technology education. The managers intend that States be afforded flexibility in providing technical assistance with any funds carried over from prior years into years affected by these amendments. The managers also intend that current restrictions on use of Perkins funds for awards and student travel apply to the provision authorizing States to support vocational youth organizations.

87. *State Leadership—Emphasis in Training & Retraining.* The Senate amendment, but not the House bill, requires that state programs give particular emphasis in training and retraining programs to recruiting and training minority teachers and counselors and that the utilization of business and industry equipment and personnel be encouraged.

The House recedes.

87. *State Leadership—Curriculum.* The Senate amendment, but not the House bill, requires that curriculum development/dissemination/field-testing activities in state programs give priority to curriculum which: (a) integrates academic and vocational studies, and (b) incorporates the needs of business, industry, and labor in high skilled occupations. These activities may include the award of contracts to the Corporation for Public Broadcasting and of grants for techprep programs.

The Senate recedes with same amendment as in #86.

89. *State Leadership—Leadership Activities.* The Senate amendment, but not the House bill, permits State leadership activities to include: (a) monitoring and evaluation, (b) development and implementation of performance evaluations, (c) development and implementation of the State assessment, (d) promoting business-industry-labor-interagency linkages, (e) promoting technology education courses, (f) establishing guidelines for local plan development, (g) creation and maintenance of a public awareness program, (h) developing linkages with community-based organizations, and (i) building collaborative efforts to improve vocational education services in traditionally underserved populations.

The House recedes with same amendment as in #86.

90. *State Leadership—Matching Funds.* The Senate amendment, but not the House bill, requires a dollar-for-dollar match for leadership activities.

The Senate recedes.

91. *Sex Equity-Displaced Homemaker Program Coordinator.* Both the House bill and the Senate amendment require that a coordinator be appointed who would be responsible for administering both the homemakers and sex equity programs. The House bill, but not the Senate amendment, adds new requirements as regards this coordinator. For example, the coordinator would have to be responsible for developing an annual plan for the use of all funds available for such programs and for managing and monitoring these funds.

The House bill places the coordinator under Title I, Part C ("State Administered Programs").

The Senate amendment places the coordinator under Title II, Part A ("State Programs").

The Senate recedes with an amendment to incorporate into State administration. (Section 111).

92. *Sex Equity-Displaced Homemaker Program Coordinator/Administration.* The House bill retains current language (Section 111(b)(1)) listing the duties to be fulfilled by the coordinator. This language is expanded by adding: (a) development of an annual plan for use of funds; (b) management of fund distribution; (c) monitoring of use of funds; (d) evaluation of program effectiveness.

The Senate amendment retains Section 111(b)(1), language and adds a new provision which allows the coordinator to review and comment on LEA plans to ensure the needs of women and men in nontraditional jobs are met.

The Senate recedes on first sentence with an amendment.

The House recedes on second sentence.

93. *Homemakers Program—Participants.* The House bill offers programs for single parents, homemakers and displaced homemakers.

The Senate amendment offers programs for single parents, displaced homemakers, and single pregnant women.

The House recedes.

94. *Homemakers Program—Reserve of Funds.* The House bill requires that the State program to assist single parents, homemakers, and displaced homemakers be funded with the sex equity program in an amount equal to 10% of the basic State grant. Seventy percent of that 10% reserve will be used for homemakers programs and the remaining 30% for sex equity programs.

The Senate amendment reserves for programs serving single parents, displaced homemakers, and single pregnant women at least 10.5% of the amount the State reserves for both secondary and postsecondary programs. (Sex equity reserve is 4% of the basic State grant.) The funds will be taken from the amount set aside for postsecondary programs, but programs may be offered in either secondary of postsecondary schools.

The Senate recedes with amendments reserving 10½%, requiring at least 7% for displaced homemakers and 3% for sex equity, and providing for a 1990 hold harmless adjusted ratably if sequestration or a reduction in appropriations occurs.

95. *Homemaker Program—Required Services.* The Senate bill provides that homemaker programs *must* provide vocational and prevocational programs, including comprehensive career guidance and counseling, to participants.

The House recedes. The managers intend guidance and counseling to be a part of the general State program but not necessarily a part of each local program.

96. *Homemaker Program—Activities.* In general, the House bill indicates that the State shall use a portion of its allotment only for the activities listed below.

The Senate amendment permits the State to use funds for the activities listed below.

The Senate recedes. The managers intend that these funds be used for direct services and the smallest amount possible be used for administration.

(a) *Preparatory/Pre-Vocational.* The House bill provides that homemaker programs may provide, subsidize, reimburse, or pay for *Preparatory services,* Including basic literacy instruction and necessary educational materials, to provide participants with marketable skills.

The Senate recedes.

(b) The Senate amendment provides that homemaker programs may provide, subsidize, reimburse, or pay for *vocational and prevocational education and training activities*—including basic *academic skills,* necessary educational materials, and *career guidance and counseling* to provide participants with marketable skills.

The House recedes with amendment changing "may" to "shall".

97. *Grants.* The House bill provides for grants to *eligible* recipients for *Preparatory services of applied technology education and applied technology education services.*

The Senate bill refers to grants to *local* recipients for *vocational and prevocational education services.*

The Senate recedes on "preparatory" and "local".

The House recedes on "applied technology".

98. *Support Services.* The House bill provides that homemaker programs may assist participants with dependent care or transportation services.

The Senate amendment provides that homemaker program may provide support services including dependent care, transportation services, *special services and supplies, books and materials.*

The House recedes.

99. *Information.* The House bill provides that homemaker programs may provide information to single parents, *homemakers,* and displaced homemakers about applied technology education programs and related support services.

The Senate amendment provides that homemaker programs may provide information to single parents, displaced homemakers, and *single pregnant women* about vocational education programs, related support services, and *career counseling.*

The House recedes.

100. *Sex Equity Programs—General Provisions.* Both the House bill and the Senate

amendment make similar requirements for sex equity programs. Provisions are identical, with the exception of the two items noted below:

(a) The Senate amendment, but not the House bill, includes comprehensive career guidance and counseling among activities to eliminate sex bias and stereotyping.

The House recedes. The managers have agreed on a State-level requirement for guidance and counseling and not on a requirement for such activities within each local program.

(b) The House bill refers to "preparatory services for applied technology education and applied technology education programs."

The Senate bill refers to "vocational and prevocational education programs."

The Senate recedes on preparatory. The House recedes on "applied technology".

101. *Sex Equity Programs—Secondary School Level.* The Senate amendment, but not the House bill, adds new provisions dealing with sex equity in schools offering secondary programs. Schools must provide: equal access to nontraditional occupation education and training and to the full range of vocational programs, programs to overcome sex bias/stereotyping, programs to expand outreach to nontraditional occupations, supplementary services, and programs to increase and provide support services. The sex equity coordinator msut review these programs and services.

The House recedes with an amendment applying requirements to postsecondary institutions.

102. *Sex Equity Programs—Competitive Awards.* The House bill, but not the Senate amendment, adds a new section requiring that the administrator of the sex equity and homemakers programs distribute the funds for both programs on a competitive basis and collect data from recipients so that evaluations can be conducted.

The Senate recedes with an amendment regarding size, scope and quality so as to ensure success. The requirement to distribute funds for sex equity and single parent/displaced homemaker programs on a competitive basis does not mean that programs may not receive continuing support from year to year if they continue to compete successfully. It is intended that successfully operating programs be supported through continued funding and that States not apply a maximum number of years a program may be funded. It is intended that the distribution of funds for the sex equity and single parent/displaced homemaker programs be based on information and needs identified by the sex equity coordinator. The funding formulas for basic grant funds are not applicable to these programs.

103. *Secondary Programs—Within State Allocation.* The House bill requires each State to allocate basic State grant funds (Title II) by formula to each LEA serving secondary students as follows: Each local educational agency within the State would receive an allocation based on its relative share of Chapter 1 basic grants (70 percent of the allocation), handicapped students (20 percent), and general enrollment—including adults enrolled in training programs (10 percent) within the State. (The State may decide how much of its Federal funds will be spent on secondary programs.)

The Senate amendment requires the State to allocate the amount reserved for secondary programs to each local educational agency in proportion to the amount of funds such agency received in basic and concentration grants under Chapter 1.

The Senate recedes. An LEA may receive funds directly or designate a fiscal agent to receive such funds in the case where LEAs form a consortium.

104. *Secondary Programs—State Correctional Program.* The Senate amendment, but not the House bill, requires the State board to ratably reduce the funds reserved for secondary programs to provide moneys to the State corrections education agency in an amount substantially equal to the amount it would have received had it been eligible for Chapter 1, but not more than 5 percent of the total secondary programs reserve. The age of individuals in correctional institutions to be counted shall be 9 through 35, although services are not limited to those in this age group.

The House recedes with an amendment treating the correctional agency or agencies as an LEA and includes in the count of individual criminal offenders in all non-Federal correctional institutions within the State, provides that the funds shall be made available to a correctional agency or agencies designated by the State board, and treats such correctional agency or agencies as if they were LEAs applying for grants to the State board.

105. The Senate amendment requires an allocation to be equal to or exceed $25,000 in order for an LEA, area school, or intermediate agency to be eligible. Such entities, however, may form consortia and aggregate their individual amounts in order to achieve this threshhold. The $25,000 minimum grant requirement does not apply to State correctional agencies.

The House bill provides that any LEA receiving a grant of not more than $5,000 must participate in a consortium. The State, however, may waive this requirement for an LEA in a rural or sparsely populated area which demonstrates an inability to form a consortium.

The House recedes with an amendment of a $15,000 minimum grant with a waiver for school districts that are unable to form a consortium if in a rural, sparsely populated area.

106. (a) *Secondary Programs—Redistribution of Funds.* The Senate amendment, but not the House bill, provides that amounts not allocated due to LEA's not meeting the $25,000 funding threshold shall be redistributed to LEAs in accordance with the provisions of the section

The Senate recedes with same amendment as #105.

(b) The House bill requires that the amount which would have gone under this formula to LEAs serving only elementary schools must be allocated to LEAs with secondary schools educating the students from such elementary school district. Conversely, the amount to be allocated to an LEA only serving secondary shcools is determined based on the number of students that enter such secondary schools from the elementary schools involved.

The House recedes on 1st sentence.

The Senate recedes on 2nd sentence.

(c) The Senate amendment prevents any LEA only serving elementary schools from receiving funds and redistributes such funds to the local or regional educational agency which provides secondary school services in the same attendance area.

The House recedes.

(d) The Senate amendment provides that amounts available to LEAs served by an area vocational school shall be made available to the area school. A State agency is permitted to distribute funds to both an area school and an LEA served by such school, if the area school and the LEA offer comparable programs. In such a case, the $25,000 minimum must be met both by the area school and the LEA

The House recedes with the same amendment as #75(k).

107. *Secondary Programs—Intermediate Educational Agency.* Senate amendment, but not the House bill, provides that where an intermediate educational agency and an LEA served by such an intermediate educational agency offer comparable voc ed programs, the State agency may distribute funds to both an intermediate educational agency and an LEA served by such an agency if the $25,000 minimum is met.

The House recedes with same amendment as #75(k).

108. SECONDARY PROGRAMS—LEA Notification to State. The House bill, but not the Senate amendment, requires an LEA to notify the State of the portion of its allocation which should be distributed to the LEA, to any consortium in which such LEA participates, or to any area school.

The Senate recedes with same amendment as #75(k).

109. The House bill requires an LEA to notify the State of the portion of its allocation which should be distributed to the LEA, to any consortium in which such LEA participates, or to any area school. Further, any LEA sending students to an area school must participate in a consortium with such school and with any other LEAs sending students to such schools and must provide a relative percentage of its allocation to be sent to such school based on the relative percentage of special needs students in that school who are from that LEA.

The Senate amendment requires an area vocational school to be allocated the funds which are available to LEAs served by that school. Intermediate educational agencies would also receive the funds allocated to LEAs served by that agency.

The Senate amendment, however, permits a State agency to distribute funds to both an area school and an LEA served by such area school if the area school and the LEA offer comparable programs. In such a case, the $25,000 minimum requirement must be met both by the area school and the LEA.

The House recedes with same amendment as #75(k).

110. *Secondary Programs.—State Reserve.* The Senate amendment, but not the House bill, permits States to reserve up to 10% of secondary school program funds to make special allocations to areas experiencing severe hardships and whose percentage, or concentration, of these hardships are above the statewide average. Such severe hardships include: severe unemployment, severe poverty concentration, high dropout rate, high crime rate, high incidence of drug abuse, or high concentration of LEP students. Funds may be distributed to LEAs, area vo-tech schools, intermediate educational agencies, or community colleges. Such reserved funds would have to be matched by the State using State sources or private sources. No funds from LEAs, area schools, or intermediate agencies may be used to meet this matching requirement. In addition to such distributions, a State may use these reserved funds at community colleges for programs providing high school diplomas to youths 16 through 18 if these community colleges match the grants.

The Senate recedes.

111. *Postsecondary Education Allocation.* (a) The House bill requires each State to

distribute by formula the amount it reserves for postsecondary and adult programs. Each eligible institution would receive a relative share of these funds based on its numbers of Pell grant and BIA grant recipients (70% of the allocation), handicapped individuals receiving assistance under the Rehabilitation Act (20%), and general enrollment (10%), within the State. A State is permitted to use training enrollment in lieu of general enrollment if the State determines that applied technology programs offered by eligible institutions are clearly distinguishable from other education programs offered by such institutions.

The Senate recedes with an amendment establishing the relative distribution of Pell and BIA grants among recipients enrolled in Perkins eligible programs in institutions of higher education, LEAs serving adults, and area schools serving adults, as the basis for distributing postsecondary funds within a State but permitting a State to apply to the Secretary for a waiver for an alternative formula proposing one or more substituting or additional factors, such as participation in publicly-funded student aid, AFDC, or JTPA programs, if such alternative results in better targeting of funds to institutions with the highest numbers of economically disadvantaged students and adults enrolled in Perkins eligible programs. A minimum grant of $50,000 is required. If the institutions decline to use the money, it shall revert back to the State to be redistributed consistent with the purposes of this Act.

(b) The Senate amendment reserves for postsecondary and adult programs 25%-35% of the 75% available for secondary, postsecondary, and adult programs and permits States to distribute these funds on either a competitive basis or formula determined by the State board.

The Senate recedes with same amendment as in #40.

(c) The Senate amendment permits a State to distribute the funds it reserves for these programs on either a competitive basis or by formula. Unlike the House bill, the Senate amendment permits such grants to be awarded to community-based organizations.

The Senate recedes.

112. *Postsecondary Programs—Priorities.* The Senate bill, but not the House amendment, gives priority to: (a) programs serving special populations; (b) apprenticeship programs; (c) programs strongly tied to economic development efforts within the State; (d) programs which train in all aspects of the occupation where job openings are projected or currently available, provide comprehensive career guidance and counseling, and are developed in conjunction with business/labor/industry/the community/the State board/other local eligible recipients, and focus on the most salable, highest placement aspects of the industry; and (e) partnerships with business/industry/labor.

The House recedes with an amendment establishing for postsecondary institutions the same criteria for local uses of funds as are applicable to secondary schools. Permissive uses of funds include tech-prep, apprenticeship, economic development, and programs involving all aspects of the industry.

113. *Postsecondary Programs—Reallocation of Funds.* The House bill, but not the Senate amendment, requires each LEA and eligible institution which does not expend all of its funds in one academic year to return such funds to the State for reallocation. If the State is not able to reallocate, then it may retain such funds to be distributed in the following academic year.

The Senate recedes.0

114. *Postsecondary Programs—Coordination with other Programs*

The Senate recedes.

The Senate amendment requires that postsecondary awards be coordinated with programs and services provided through JTPA, the Adult Education Act, and the Family Support Act.

The House recedes retaining the provision with the exception of the formation of a human investment council.

115. *Secondary Programs—Minimum Grant Size.* The House bill provides a minimum grant size of $5,000. Any LEA receiving a grant of less than $5,000 must participate in a consortium.

The Senate amendment requires a minimum grant size of $25,000 in order for an LEA area school, or intermediate agency to be eligible for funds. Such entities may form consortia and aggregate their individual amounts in order to achieve this threshold.

Secondary Programs—Minimum Grant Size Exemption. The Senate amendment, but not the House bill, exempts State correctional agencies from the minimum grant requirement.

The House recedes with same amendment as #105.

116. *Secondary Programs—Minimum Grant Size Waiver.* The House bill, but not the Senate amendment, permits a State to waive the minimum grant requirement for an LEA in a rural or sparsely populated area which demonstrates an inability to form a consortium.

The Senate recedes with same amendment as #105.

117. *Secondary/Postsecondary Funding—Hold Harmless.* House bill, but not the Senate amendment, provides a hold harmless with no LEA or eligible entity receiving less than 80% of the average of its allocation percentage for each of the 3 preceding fiscal years; in the second and third fiscal years, no less than 80% of the allocation percentage for the preceding fiscal year. In the event a State does not receive sufficient funding to pay the full hold harmless amount, payments will be ratably reduced.

The House recedes.

118. *Secondary/Postsecondary Funding—Duplication.* The House bill, but not the Senate amendment, forbids Federal funds from being used to duplicate facilities or services unless alternative services or facilities would be more effective.

The Senate recedes.

119. *Secondary/Postsecondary—Allocation Percentage.* The House bill, but not the Senate amendment, defines "allocation percentage" for this subsection as the percentage which an LEA or eligible institution received of the total amount allocated under this section or allotted under the previous Perkins Act to all agencies and institutions in the State.

The House recedes.

120. *Postsecondary Program—Eligible Institutions.* The House bill defines "eligible institution" as any secondary school, area school, technical institute, community college, or institution of higher educatin designated by the State that offers programs qualified for funds under the basic State grant and that seeks to receive assistance. (This definition is applicable to both secondary and postsecondary programs.). In addition, the House bill permits an LEA to apply for funds as part of a consortium with other LEAs or eligible institutions of higher education to conduct programs.

The Senate amendment does not define "eligible institution" but makes eligible for postsecondary funding: (a) postsecondary education institutions, (b) LEAs for programs for adults in secondary schools, (c) area vocational schools serving postsecondary students or adults, (d) community-based organizations providing vocational education to adults, (e) any of the above entities in partnership with business/industry/labor, and (f) consortia of the above entities.

The House recedes with an amendment defining "eligible institution" as an institution of higher education, an LEA serving adults, or an area vocational education school serving adults. In addition, the definition of postsecondary education is clarified to include BIA controlled postsecondary education institutions.

121. *Secondary/Postsecondary Funding—Definitions.* The House bill, but not the Senate amendment, adds "institution of higher education" and "Pell Grant recipient" to the list of definitions of Title II.

The Senate recedes.

122. *Use of Funds.* The House bill retains the application provision from current law and proposes new limitations on the use of Federal funds. Each LEA and eligible postsecondary institution may only use its funds to:

(1) first serve schools with the most special needs students and which have programs in greatest need of improvement;

(2) provide programs that integrate academic and occupational disciplines, offer coherent sequences of courses leading to a job skill, offer counseling, assist special needs students through supportive services, are of sufficient size, scope and quality, and cooperative with the sex equity program. The House bill also retains the provision from current law permitting the State to fund programs in private-for-profit institutions.

The Senate recedes with same amendment as #75(h).

123. The Senate amendment has separate requirements for use of funds for secondary programs and for postsecondary and adult programs. The Senate amendment requires that secondary school funds be spent only on the following populations: economically disadvantaged students, individuals with disabilities, individuals who participate in programs designed to eliminate sex bias, economically disadvantaged adults, and criminal offenders.

The Senate recedes. The managers intend that programs for adults may be supported from either the secondary or postsecondary allocation received by an area school or LEA serving adults. In addition, postsecondary institutions serving high school students, ages 16-18 would be eligible for funding from either the secondary or postsecondary allocations.

124. *Use of Funds—Assessment.* The Senate amendment, but not the House bill, requires the services provided under the basic State grant to be identified and designed through an assessment of the interests, abilities and needs of special population students and shall reflect the participation of both parent and student, and guidance counseling activities to criminal offenders.

The House recedes with an amendment requiring the participation of students and parents.

125. *Use of Funds—Administrative Costs.* The Senate amendment but not the House bill, limits the amount of basic State grant funds to be used by local recipients for administrative costs to no more than 5%.

The House recedes with an amendment also applying to postsecondary recipients.

126. *Use of Funds—Community-Based Organizations.* The Senate amendment, but not the House bill, permits secondary schools to use funds to develop programs in consortia or in cooperation with community-based organizations.

The House recedes.

127. *Use of Funds—Programs Which May Be Offered.* Both the House bill and the Senate amendment authorize funds for programs which integrate academic and occupational disciplines; requires such integration "to the extent practicable." The House bill requires a "coherent sequence of courses leading to a job skill" while the Senate bill requires a "sequential course of study" which motivates students to excel and incorporates business and industry.

The Senate recedes with an amendment regarding providing counseling throughout the course of study as a permissive use of funds.

(a) The House bill authorizes programs which use counseling to encourage students, while the Senate amendment requires programs to provide comprehensive guidance and counseling by grade 9 and throughout the vocational program.

The Senate recedes with amendment regarding providing counseling throughout the course of study.

(b) The House bill requires support services for special populations while the Senate bill mandates supplementary services which enable special populations to participate fully in programs.

The House recedes with the same amendment as #75(h).

(c) The House bill uses the phrase "of such size, scope, and quality to bring about improvement" while the Senate amendment uses the phrase "give reasonable promise of meeting the vocational needs of the students in describing the requirement that projects be of sufficient size, scope and quality.

The Senate recedes with an amendment providing that programs be of such size, scope, and quality as to be effective.

(d) The House bill authorizes programs which seek to cooperate with activities of the sex equity programs while the Senate bill authorizes programs to eliminate sex bias in addition to the sex equity reserve at the state level.

The House recedes with the same amendment as #75(h).

128. *Informational.* (b)(1) The Senate amendment has separate sections for use of funds for secondary programs and for postsecondary and adult programs.

Secondary programs must use funds to provide special needs students with supplementary services, ensure that programs for such individuals are of the highest quality and state-of-the-art, and support additional staff, equipment, materials, and services for such individuals. Secondary programs shall, to the extent practicable use funds for special needs individuals to integrate academic and vocational training, providing a sequential course of study, and which encourages use of the business-industry model of applied learning. These programs must also provide program improvement to upgrade instruction and must designate a special populations coordinator. Further, comprehensive guidance and counseling must be provided to students below 9th grade and to their parents. Once the needs of special population students are met, then funds may be used to benefit other populations. No more than 5% of a local grant may be used for administrative costs. Equipment purchased under the Act may be available for instructional purposes not related to special needs students if certain conditions are met.

The Senate recedes with same amendment as #75(h).

129. *Use of Funds—Private Institutions and Employers.* The House bill permits a State, LEA, or eligible institution to use a portion of their respective allotments to provide educational training through arrangements with private applied technology training institutions, private postsecondary educational institutions, labor organizations, joint labor-management apprenticeship programs, and employers whenever such institutions or employers can make a significant contribution to State plan objectives and can provide substantially equivalent training at a lower cost or can provide equipment or services not available in public institutions.

The Senate amendment permits postsecondary and adult grant funds to provide education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers under the same conditions specified in the House bill.

The Senate recedes.

130. *Coordinator.* The Senate amendment, but not the House bill, requires the local recipient to designate a special populations coordinator to ensure that special populations are receiving services. Funds for the coordinator shall be paid from administrative monies.

The Senate recedes with an amendment making a permissible use of local administrative money the payment, in whole or in part, of a special populations coordinator's salary.

131. *Use of Funds—Tech Prep.* The Senate amendment, but not the House bill, permits the use of secondary school funds for tech prep programs for special populations.

The House recedes with an amendment not limiting to special populations, and not limiting to secondary programs.

132. *Use of Funds—Other Than Special Populations.* The Senate amendment permits secondary funds with respect to curriculum development and program improvement to be used for other populations once the needs of special population students are met.

The Senate recedes with same amendment as #75(h).

133. *Use of Funds—Equipment.* The Senate amendment, but not the House bill, provides that equipment purchased with federal secondary school funds with respect to curriculum development and program improvement may be used for instructional purposes not related to special needs students if the acquisition of the equipment: was reasonable and necessary, if it is used after regular school hours or on weekends, and if such other use is incidental to the use of the equipment, does not interfere with the use of that equipment, and does not add to the cost of its use.

The House recedes. The managers intend, by adopting this provision, to make more widely available equipment purchased with Federal funds. For instance, data processing equipment used in Perkins-supported programs during the regular school day could be made available for adult literacy courses at night. The managers want to emphasize that nothing in this section is designed to place limitations on use of equipment in Perkins funded programs.

134. *Use of Funds—Consultation.* The Senate amendment, but not the House bill, requires local recipients to provide for consultation with members of special populations, students, parents, teachers, workers and members of community-based organizations in the planning of secondary school programs.

The House recedes with the same amendment as #75(h).

135. *Report.* The Senate amendment adds a new requirement that the local application must contain a report on the number of special population individuals being served and must assess the needs of special populations and the planned use of funds to meet those needs. This application must also show that parents and special population students have been involved in developing programs and there has been coordination with community-based organizations. The special needs coordinator must review and comment on the assurances in the application regarding services to those populations.

The House recedes on first two sentences.

The Senate recedes on the third sentence.

136. *Performance Evaluation and Improvement.* The House bill requires each State to review all programs in secondary and post-secondary institutions.

The Senate amendment requires that: (a) *secondary* programs receiving basic State grant funds develop goals and evaluate the effectiveness of programs with respect to basic and occupational skills and the ability to meet the needs of special populations; (b) local recipients consult with the State in developing measurement criteria; (c) if a local entity is not making substantial progress in meeting performance criteria, the entity must develop a program improvement plan; and (d) regular program reviews, including participation of special population representatives, must be done to overcome any barriers resulting in lower rates or access or success for special populations. The Senate amendment further requires the local recipient to consult with the State board in developing the measurement criteria.

The Senate recedes with amendments requiring each eligible recipient with full participation by representatives of special populations to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students and all others involved. In addition, the amendment requires that if student progress has not been made after one year of implementation of the plan by the LEA, the State and LEA will work together to develop a joint plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year. These amendments also apply to "sex equity and displaced homemakers" programs.

137. *Program Improvement Plan.* The Senate bill, but not the House amendment, requires that each entity operating a secondary program must adopt an improvement plan if substantial progress is not being made to meet the evaluation criteria. If, after one year of implementation of this plan, sufficient progress has not been made, the State shall work jointly with the local entity (and teachers, parents, and students) to develop a further plan of program improvement which will include technical as-

sistance from the State and a timetable for improvement.

The House recedes with an amendment requiring that if student progress has not been made after one year of implementation of the plan by the LEA, the State and LEA will work jointly to develop a plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year.

138. *Special Populations.* (a) The House bill contains requirements for State level assurances and for local assurances that special populations will be served. The State Board must assure that such populations have access to programs and that individuals with handicaps be served in conformity with the Education of the Handicapped Act and Section 504 of the Rehabilitation Act. The State must also assure that programs for special populations will be monitored and will be supervised by individuals in the State responsible for such populations. Each local educational agency must provide specific information to special population students one year before they would be eligible for programs. Each LEA and institution of higher education must assure that the special needs of these students are being met in integrated settings and through adopting a curriculum and providing counseling. The State must also provide for participatory planning in the creation of programs and for an appeal procedure.

The Senate recedes.

(b) The Senate amendment includes: the economically disadvantaged, individuals with disabilities, individuals who participate in programs designed to eliminate sex bias and stereotyping in vocation education, LEP students, economically disadvantaged adults, and criminal offenders—both juveniles and adults—who are serving in correction institutions as special populations.

The House recedes.

(c) The Senate amendment contains State assurances regarding special populations in the State plan. The amendment also requires the special populations to be served by local secondary agencies, but has different provisions for the populations to be served by post secondary agencies.

The Senate recedes.

139. *Special Populations—Adults.* The Senate amendment, but not the House bill, permits any LEA with a student enrollment exceeding 100,000 which served economically and education disadvantaged adults in FY 1990 to continue to serve such adults with the same proportionate amount of funds as they used for that purpose in FY 1990.

The Senate recedes.

140. *Special Populations-Assurances/Disadvantaged.* The House bill requires that the State board provide assurances that all special populations (in both secondary and postsecondary programs) be provided with equal access to recruitment, enrollment, and placement activities and that they be provided equal access to the full range of programs available to others (including occupationally specific courses of study, cooperative education, and apprenticeship programs) and *shall not be discriminated against on the basis of their status.* The education of disadvantaged students will be monitored to assure they have access in the most integrated setting possible.

The Senate recedes.

141. The Senate amendment contains similar provisions that secondry school program recipients provide disadvantaged students with equal access in recruitment, enrollment, and placement activities and with equal access to the full range of vocational programs (including occupational specific courses of study, cooperative, education and apprenticeship programs), *and also requires comprehensive career guidance and counseling services and the supplementary services necessary to ensure full participation in programs.*

The House recedes with an amendment that comprehensive guidance and counseling be provided "to the extent practicable".

142. *Special Populations—Assurances/Students With Disabilities.* In addition to the general asurances for special poulations, the House bill requires individuals with handicaps be served in conformity with the EHA and Section 504 of the Rehabilitation Act and in the least restrictive environment. If the student has an IEP, services must be provided in accordance with it. If a student does not have an IEP, services will be provided under Section 504 guarantees. Planning for such individuals must be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies. Their education will be monitored and supervised in conjunction with supervision by the State agency administering EHA.

The Senate recedes with an amendment "and for the purpose of this Act such rights and protection shall include making vocational education programs readily accessible to qualified individuals with disabilities by the provision of services defined in sections of this Act".

143. The Senate amendment requires secondary school program Title II recipients to provide students with disabilities equal access to recruitment, enrollment, placement, and a full range of vocational programs in the least restrictive environment, as well as in conformance with the vocational education component of an IEP. *Supplementary services must be provided.* Planning must be coordinated with appropriate representatives of vocational and special education. The head of the State office responsible for administering Part B of EHA must review the planning. The equal access provisions of Section 504 and EHA will be applied.

The Senate recedes with an amendment inserting language after the word "institution", "and when appropriate, assist in the preparation of applications".

144. *Special Populations—Assurances/Educationally Disadvantaged.* The House bill limits the term "disadvantaged" to only those economically disadvantaged.

The Senate amendment defines "disadvantaged student" to mean a student who is economically or educationally disadvantaged.

The House bill requires the State to monitor access to programs for economically disadvantaged. The Senate bill requires the Chapter 1 coordinator to monitor services, and further requires each local recipient to provide equal access and supplementary services for economically disadvantaged students.

The House recedes on the first two sentences.

The Senate recedes on the third and fourth sentences.

145. *Special Populations—Assurances/LEP.* In addition to the general population assurances, the House bill requires that LEP students have access in the most ingregrated setting possible.

The Senate amendment requires that secondary school program recipients assured equal access in recruitment, enrollment, placement, and full range of programs. In addition, *supplementary services must be provided, such as adapted vocational instruction, communication and counseling in the students' langauge, and bilingual and cultural counseling.* Planning for LEP students must be reviewed by the head of the State office responsible for education of LEP students.

The Senate recedes.

146. *Special Populations—Provison of Information.* The House bill, but not the Senate amendment, requires that LEAs provide special population students and their parents with information regarding opportunities, eligibility requirements, specific courses, special services, employment opportunities, and placement at least one year before the students enter vocational training. Postsecondary institutions must provide such information upon request or when a special population student seeks admission. Information must be presented in an understandable form.

The Senate bill requires guidance and counseling of all special populations in grade 9 in the course of study in each program, its requirements, postsecondary, apprenticeship and career opportunities. In addition, the Senate bill requires guidance and counseling services at the prevocational level.

The Senate recedes of first paragraph with an amendment "and when appropriate, assist in the preparation of applications".

The House recedes on second paragraph with amendment contained in #75(h).

147. The House bill requires an assurance that each LEA or higher ed. institution will assess the special needs of participating students and provide special services, while the Senate amendment requires each postsecondary school to provide equal access and supplementary services and to regularly review the program. Each local recipient of secondary school funds is required to provide supplementary services, and to assess the abilities and needs of the students.

The Senate recedes with an amendment including a new paragraph: "(1) Assist students who are members of special populations to enter vocational education programs. With respect to students with handicaps, institutions of higher education shall assist local educational agencies in fulfilling the transition requirements of the Education of the Handicapped Act".

148. The House bill requires each grant recipient to provide counseling services for the transition from school to work, while the Senate amendment requires each secondary school recipient to provide guidance and counseling for part-time and summer employment while in school, and for post-school employment.

The House recedes and the Senate recedes.

149. The House bill, but not the Senate amendment, requires LEAs in a consortium to determine each school's relative share of special populations.

The House recedes.

150. *Special Populations—Participatory Planning.* The House bill requires the State board to establish procedures to assure direct participation in State and local decisions by parents, students, teachers, and area residents; provide procedures by which such individuals may appeal adverse decisions; and provide technical assistance to

assure that such individuals receive the information needed to use these procedures.

The Senate recedes with an amendment to include an appeals procedure as part of the assurances. It is expected that the participatory planning requirements will help ensure that vocational education programs are responsive to the needs of the students, the special populations, and the communities they serve, and that these programs will work in the manner Congress intended. It is the intent of the managers that the expedited appeals procedure or any other provisions in this law will in no way restrict an individual's ability to pursue remedies under any other provision of law.

151. *Special Populations—Assurances/Programs for Criminal Offenders.* The Senate amendment, but not the House bill, requires State coorectional eduction agencies receiving Title II funds to administer vocational programs for male and female criminal offenders to update equipment. Funds are to be distributed to correctional institutions in proportion to the number of individuals served by each facility.

The House recedes with an amendment which makes criminal offenders in non-Federal correctional institutions, including county and local correctional institutions eligible for services; requires programs to coordinate with eligible recipients in the provision of services to offenders both prior to and following release, gives special consideration for services to inmates who are completing their sentences and preparing for release, and requires that special consideration in the awarding of funds be given to correctional institutions at which vocational education programs are not currently available.

152. *Special Populations—Others Remedies.* The House bill, but not the Senate amendment, has a disclaimer which indicates that nothing in the subsection shall be construed to limit remedies available under any other provision of law.

The House recedes.

152. *Use of Funds—Postsecondary.* The Senate amendment, but not the House bill, establishes separate requirements for postsecondary and adult programs. It provides grants for postsecondary and adult vocational education programs for: (a) training older individuals, (b) the costs of serving adults in other vocational programs, (c) training programs designed cooperatively with employer or labor, (d) industry-education-labor partnerships in high technology fields, (e) programs offering high school diplomas to individuals aged 16-18, and (f) tech-prep. The State must use funds available under this part for apprenticeship training. The State may also use these funds for comprehensive tech prep programs and State-wide mentoring programs.

The Senate recedes.

154. *Use of Funds—Postsecondary/Apprenticeship Programs.* (Page 95). The Senate amendment, but not the House bill, requires that postsecondary basic State grant funds shall be used for apprenticeship program.

The Senate recedes.

155. *Use of Funds—Postsecondary-Private Institutions & Employers.* The House bill permits funds to be used to provide education and training through arrangements with private institutions (including labor organizations and joint-labor mangement apprenticeship programs).

The Senate amendment allows postsecondary & adult grants to be used to provide education and training through arangements with private vocational training institutions, private postsecondary educational institutions, and employers if those institutions can make a significant contribution at a lesser cost—or provide equipment or services not otherwise available.

The House recedes with an amendment adding labor organizations and apprenticeship programs.

156. *Use of Funds—Postsecondary/Mentoring.* The Senate amendment, but not the House bill, permits a State board to award grants for mentoring programs to institutions of higher education offering comprehensive programs in teacher or counselor preparation. The mentoring programs must establish partnerships aimed at preparing and meeting the continuing needs of vocational educators and counselors, provide competency-based teacher education programs, and assess professional education skills. The program shall employ highly qualified classroom educators as mentors to asssit with the program.

The House recedes with an amendment including "mentoring" in the list of permissive activities.

157. *Use of Funds—Postsecondary/Special Populations* (Page 97). The Senate amendment requires that postsecondary program fund recipients provide special populations equal access recruitment, enrollment, placement, and vocational programs and offer needed supplementary services. Recipients must regularly review such programs, with groups, to identify barriers to success.

The House bill requires that Perkins dollars first serve these populations.

The Senate recedes on first two sentences.

The House recedes on last sentence.

158. *Administrative Provisions—Supplement, Not Supplant.* The Senate amendment, but not the House bill, adds a new supplement but not supplant requirements, but permits an exception for services under an IEP pursuant to the Education of the Handicapped Act and services under Section 504 of the Rehabilitation Act.

The House recedes.

159. *Administrative Provisions—State Consideration of Fed. Aid.* The Senate amendment, but not the House bill, adds a new requirement barring a State from considering Federal aid in distributing other aid within the State.

The House recedes.

160. *Administrative Provisions—Waiver Authority.* The Senate amendment, but not the House bill, permits the Secretary to waive the two new requirements listed above for FY 1991 through 1993 for any State that has spent for postsecondary education programs more than 70% of the funds available under this title for FY 1989.

The Senate recedes.

161. *Administrative Provisions—Size, Scope, Quality.* The Senate amendment, and the House bill require that postsecondary programs be of sufficient size, scope, and quality to give promise of meeting the needs of students.

The House recedes with a conforming amendment to apply provisions on size, scope, and quality to secondary schools.

162. *Administrative Provisions—Other Allowable Programs.* The Senate amendment, but not the House bill, permits postsecondary program funds to be used for work-site programs, placement services, and programs which involve students in meeting the needs of the community.

The House recedes.

163. *Administrative Provisions—Academic Credit.* The Senate amendment, but not the House bill, permits the State board to consider granting academic credit for vocational courses which integrate core academic competencies.

The House recedes.

164. *Administrative Provisions—Waiver of "Split".*—The Senate amendment, but not the House bill, permits a State to petition the Secretary for a waiver of the requirements that 65-75% of Perkins funds must be spent for secondary programs. The Secretary may approve such waiver only if certain conditions are met, such as the need to serve more effectively special populations enrolled in secondary or area schools or having dropped out of high school. In case of a waiver, such funds must be directed to serve such populations to become better trained or to achieve a high school diploma and such funds must be spent in postsecondary schools with high concentrations of special populations. The Senate secondary school agency is afforded the opportunity to file objections to such waiver petition. If granted, such waiver cannot permit less than 50% of a State's Perkins funds to be used for secondary programs except for a demonstration program in no more than five States under certain conditions.

The Senate recedes.

165. The Senate amendment, but not the House bill, also permits the Secretary to establish a demonstration program for no more than 5 states to spend up to 65% for postsecondary and adult programs. In selecting the five states, the Secretary is required to take into consideration the school dropout rates, state unemployment figures and the demand for postsecondary and adult education programs.

The Senate recedes.

166. *Regulations.*—The House bill, but not the Senate amendment, requires the Secretary of Education to issue regulations in consultation with the Secretaries of Labor, and Health and Human Services.

The Senate recedes with an amendment striking the Secretary of Health and Human Services.

167. *Special Programs—Community-based Organizations.* The Senate amendment, but not the House bill, permits community based organization funds to be used for model programs for school dropouts.

The House recede.

168. (a) *Special Programs—Consumer and Homemaking Education.* The House bill, but not the Senate amendment, requires that any sex bias programs funded with home economics money must be administered in cooperation with the State sex equity program.

The Senate recedes.

168. (b) The House bill requires the state to provide a full-time state administrator, whereas the Senate amendment makes this permissive.

The Senate recedes.

169. *Special Programs—Repealers.* The House bill repeals Part C, Adult Training, The Senate amendment repeals Part C, Adult Training; Part D, Career Guidance and Counseling; and Part E, Industry-Education Partnerships. The Senate amendment, but not the House bill, transfers the guidance and counseling program from Title III to Title IV as an authorized program under National Demonstration programs.

The Senate recedes with the same amendment as in No. 16, but authorized for the career guidance and counseling and industry-education partnerships programs are triggered at $1 billion in funding for the basic State grant.

170. *Special Programs—Guidance and Counseling/Career Info.* The House bill, but not the Senate amendment, amends the guidance and counseling program by authorizing the development of career information delivery systems.

The Senate recedes.

171. *Special Programs—Guidance and Counseling/R&D Seaside.* The House bill, but not the Senate amendment, adds a new requirement that not less than 20 percent of the sums available under career guidance and counseling must be used for research and demonstration projects demonstrating student outcomes.

The House recedes.

172. *Special Programs—Business-Labor-Education Partnerships.* The House bill revises the business-labor-education partnership program by changing the findings and purpose to broaden its scope beyond the high technology occupations and to emphasize coordination with JTPA. Specifically, the House bill:

The Senate recedes with an amendment to authorize at $10 million, triggered at $1 billion in appropriations for the basic State grant.

(a) Revises the authorization of grants to include (i) apprenticeships, (ii) new equipment, (iii) cash contributions to programs, (iv) teacher internships and training, and (v) bringing representatives of business and organized labor into the classroom.

The Senate recedes with an amendment adding the Senate uses of funds to list of activities and eliminating cash contributions to programs.

(b) Requires the State to provide 60 percent of the funds for the partnerships;

The Senate recedes with an amendment clarifying that the 60 percent is for small businesses as defined by the Secretary of Labor or labor organizations. Otherwise, a 50% match is required.

(c) Gives preference to partnerships that coordinate with local groups;

The Senate recedes with an amendment adding priority for partnerships providing job training in areas with significant labor shortages.

(d) Requires that grants be equitably distributed between rural and urban areas;

The Senate recedes with an amendment requiring nationwide geographic distribution.

(e) Requires that no less than 50 percent of the aggregate cost of programs and projects for these partnerships come from non-federal sources and not less than 50 percent of such non-federal share will be provided by participating businesses or labor organizations; and

The Senate recedes with an amendment clarifying that the 50% match is not applicable to small businesses or labor organizations.

The Senate amendment repeals Part E, Industry-Education Partnerships, and creates a new business-industry and labor partnership under National Demonstration Programs in Title IV. Under the new program, the Secretary is authorized to make grants to business-industry-labor partnerships to provide access to special populations, strengthen coordination, address economic development needs, provide training and career counseling to retain and upgrade worker and address the needs of new high-tech fields. Priority for grants will be given to areas with significant labor shortages.

The Senate recedes.

173. *Tech-Prep—Authorization.* The House bill authorizes the tech-prep program as Part E of title III, Special Programs, separately as a national program administered by the Secretary.

The Senate amendment authorizes tech-prep a Part B of Title II, the basic State grant.

The Senate recedes.

174. *Tech-Prep—Statement of Purpose.* Both the House bill and the Senate amendment create a new technology preparation program. The House bill, but not the Senate amendment, contains findings and a statement of purpose.

The Senate recedes.

175. *Tech-Prep—Funding.* The House bill authorizes $200 million in FY 1990 and such sums in FY 1991-1995 for tech-prep education.

The Senate amendment reserves 5 percent of each State's grant for State administered tech-prep programs.

The Senate recedes with an amendment setting $125 million for 1991 and then such sums.

176. *Tech-Prep—Eligible Recipients/Proprietary Schools.* The House bill includes as eligible tech-recipients non-profit institutions of higher education offering 2-year associate degrees or certificates and which qualify under Section 481(a) of the Higher Education Act, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978. In addition, the House bill specifically makes eligible for funding proprietary institutions offering two-year associate degree programs which qualify under Section 481(a) of the Higher Education Act.

The Senate amendment includes institutions of higher education offering a 2-year associate's degree or a 2-year postsecondary certificate.

The Senate recedes with an amendment that institutions under a default management plan as required by the Secretary are not eligible tech-prep recipients.

177. *Tech-Prep—Eligible Recipients/Intermediate Agencies, BIA.* The Senate amendment, but not the House bill, includes as participants in consortia intermediate educational agencies serving secondary school students and secondary schools funded by the Bureau of Indian Affairs.

The House recedes.

178. *Tech-Prep—Federal Share.* The House bill, but not the Senate amendment, has a declining Federal share for the program. (Year 1: 100% for planning, Year 2: 80% for implementation/operation, Year 3: 70% for operation, Year 4: 60% for operation, Year 5: 50% for operation.)

The House recedes.

179. *Tech-Prep—Apprenticeship Programs.* The Senate amendment, but not the House bill, includes 2-year apprenticeship programs as part of tech-prep.

The House recedes with amendments requiring the apprenticeship program to be at least two years' duration and to follow a secondary education.

180. (a) *Degree.* The House bill require the program to lead to an associate degree or certificate, while the Senate amendment requires that it lead to an associate degree.

The Senate recedes.

180. (b) Both the House bill and the Senate amendment requires training for counselors but in a somewhat different form.

The Senate recedes.

180. (c) The Senate amendment, but not the House bill, requires programs to provide equal access to special populations and to provide such populations with pre-vocational programs.

The House recedes with a conforming amendment to change "prevocational" to "preparatory".

181. *Tech-Prep—Counselor Training.* The House bill requires counselor training designed to assist counselors to more effectively recruit students, assure their successful program completion, and assure appropriate placement.

The Senate amendment makes the same provision for counselor training as is provided for teachers. In addition, programs *may* provide the same type of counselor training specified in the House bill.

The Senate recedes.

182. *Tech-Prep—Equal Access.* The Senate amendment, but not the House bill, requires programs to provide equal access to special populations and to provide such populations with pre-vocational programs.

The House recedes with a conforming amendment to change "prevocational" to "preparatory".

183. *Tech-Prep—Equipment/Technical Assistance.* The House bill permits programs to provide for the acquisition of tech-prep program equipment or instructional materials.

The Senate amendment permits programs to provide training for counselors to effectively recruit students, provided for acquisition of equipment, and acquire technical assistance from State or local entities with successful tech-prep programs.

The House recedes on permitting contracting with States for technical assistance. The Senate recedes on counselors.

184. *Tech-Prep—Submission of Application.* The House bill requires an application be submitted to the Secretary for approval.

The Senate amendment requires an application to be submitted to the State board for approval.

Blend provisions: at or under a $50 million appropriation, tech-prep is a Federal discretionary grant program; over $50 million, funds are distributed to States according to the basic grant formula.

185. *Tech-Prep—Plan Length.* The House bill provides for a five-year plan as part of local application.

The Senate amendment provides for a three-year plan.

The House recedes.

186. *Tech-Prep—Special Considerations.* The House bill requires that the Secretary give special consideration to applications which provide for effective transfer of students to 4-year degree programs, *demonstrate a commitment to continuing the program after termination of Federal aid,* are developed in consultation with business, industry and labor unions, and *address the needs of minority, LEP, handicapped and disadvantaged youths and issues of dropout prevention and re-entry.*

The Senate amendment requires that the Senate board give special consideration to effective transfer to 4-year programs and to plans developed in consultation with business, industry, and labor unions.

The House recedes on the first part regarding special consideration for those committed to continuing the program. The Senate recedes on last part regarding addressing needs of special populations.

187. *Tech-Prep—Equitable Distribution.* The House bill, but not the Senate amendment, requires an equitable distribution of grants between rural and urban areas and requires that the State be notified of applications and grants.

The Senate amendment requires that the Senate board give special consideration to

effective transfer to 4-year programs and to plans developed in consultation with business, industry, and labor unions.

The Senate recedes with an amendment applying the provisions to the program at or under $50 million.

188. *Tech-Prep—Notice to States.* The House bill, but not the Senate amendment, requires each consortia submitting an application notice to the SEA and State agency for higher education and that the Secretary notify the State agency for higher education, SEA and State Human Investment Council when a tech-prep grant award is made in the State.

The Senate recedes with same amendment as in No. 187.

189. *Tech-Prep—Sequential Course of Study.* The Senate amendment, but not the House bill, includes as part of the definition of tech-prep sequential course of study.

The House bill includes a definition of "articulation agreement" which means a program to provide students with nonduplicative sequence of progressive achievement leading to competencies in a tech-prep program. (See Page 115.)

The Senate recedes.

190. *Tech-Prep—Reports.* The House bill, but not the Senate, requires the local recipients submit reports to the Secretary and that the Secretary shall submit a report to Congress regarding the effectiveness of this program.

The Senate recedes with an amendment limiting provision to program when appropriations are at or under $50 million.

191. *Tech-Prep—Definitions.* The House bill adds definitions of the term "articulation agreement" and "tech-prep education" to Title III, Part E—Definitions.

The Senate amendment, but not the House bill adds new definition for Title II, Part B, which include: "articulation agreement," "community college," (which included institutions under section 120(a) of the MEA and Tribally Controlled Community Colleges), and "technical preparation education program" (including the fields of agriculture, health, and business).

The House recedes on definition of "community colleges" and on the inclusion of agriculture, health and business in the fields of study. The Senate recedes on "tech-prep".

192. *Facilities Improvement and Equipment Acquisition.* The House bill, but not the Senate amendment, authorizes a new Title III, Part F—Improvement of Facilities and Equipment Acquisition—for the improvement of facilities and the acquisition of equipment.

The Senate recedes with an amendment authorizing $100 million for grants to States and LEAs, distributed according to the Chapter 1 concentration grant formula, for equipment and renovation (and if such needs are fulfilled, for program improvement).

193. *Facilities Improvement and Equipment Acquisition/Allotment.* The House bill, but not the Senate amendment, allots funds for the acquisition of equipment to each State in proportion to the number of children aged 5 to 17 eligible to be counted for Chapter 1. LEAs with Chapter 1 count of 204 or more may receive funds, and funds must be equally divided between rural and urban LEAs.

The Senate recedes with same amendment as in # 192.

194. *Supplementary Grants.* The Senate amendment, but not the House bill, adds a new Part F to Title III for Supplemental Grants, which authorizes $100 million in FY 1991 and such sums for the subsequent four years for grants to the States to improve vocational education (in LEAs, area schools, intermediate educational agencies) in economically depressed areas.

The Senate recedes.

195. If appropriations are over $500 million, the funds are distributed using a Chapter 1 formula. If under $50 million, the Secretary makes the grants. In cases where the Secretary makes grants, priority shall be given to States with high percentages of Chapter 1 eligible children, individuals in poverty, and school dropouts.

The Senate recedes.

196. In addition, state "level of effort" on education spending shall be condidered in the awarding of grants by the Secretary, and grants shall be distributed equitably among geographic regions.

The Senate recedes.

197. In cases where States receive the funds, they must submit an application to the Secretary, and local recipients must submit applications to the State. States are required to distribute at least 954 of the funds by competitive grants to local recipients.

The Senate recedes.

198. *Community Education Employment Centers.* The Senate amendment, but not the House bill, creates a Part G of Title III—Community Education and Employment Centers and authorizes $16 million in each of FY 1991-1992 for grants to establish community education employment centers. Such centers, not to exceed 10 nationally, are meant to provide comprehensive education, employment and social services for poor youths.

The House recedes with an amendment authorizing $10 million to be divided between lighthouse schools (25%) and community education centers (75%), but no appropriation unless the basic grant receives $1 billion. Another amendment requires the involvement of PICs and the coordination with JTPA and transition to employment in community education centers.

199. *Research—Technical Amendments.* The House bill, but not the Senate amendment, amends Section 401 of Title IV, Part A to include development in the title expand the definition of homemakers to homemakers and displaced homemakers, and to include a new provision authorizing additional research and development activities.

The Senate recedes.

200. *Research—Unsolicited Proposals.* The House bill amends Section 402 of Title IV to require research in vocational education to be done through OERI, expands the definition of homemakers to homemakers to displaced homemakers.

The Senate amendment amends Section 402 of Title IV to require research on vocational education be done through OERI, expanding research activities to include single pregnant and replacing the current subsection (b) with a provision to require the Secretary to fund meritorious, unsolicited research proposals.

The House recedes.

201. *Research—Annual Report.* The Senate amendment, but not the House bill, eliminates the requirement that the Secretary report annually a summary of research he funds.

The House recedes.

202. *Research—Performance Standards.* The House bill, but not the Senate amendment, expands Section 402 to require the Secretary to conduct research on developing performance standards and measures and the relationship of these to the data system to be established (Section 421) and to evaluate the use of performance standards, including their effect on student participation and outcomes.

The Senate recedes.

203. *Research—Advanced Skills/All Aspects of Industry.* The House bill, but not the Senate amendment, requires more advanced skills and problem-solving be included in research and successful methods for preparing students on all aspects of the industry they are preparing to enter. (The House bill also eliminates paragraphs 5 and 6 of the current law.)

The Senate recedes with an amendment regarding all aspects of the industry "the extent practicable."

204. The House bill, but not the Senate amendment, requires the Secretary to disseminate research and development results through certain agencies and authorizes the establishment of a national network for curriculum coordination.

The Senate recedes.

205. (a) The Senate amendment, but not the House bill, reserves 3.5% of funds reserved for national programs for the network.

The Senate recedes with an amendment including a reservation of funds for the national network for curriculum coordination.

(b) The Senate amendment, but not the House bill, requires that there be six regional curriculum coordination centers.

The House recedes.

206. *National Assessment.* (a) The House bill provides for a national assessment of vocational education to be conducted through the Office of Education Research and Improvement by an independent assessment group. Such assessment shall not be subject to any review before its submission to the Congress.

The Senate recedes.

(b) The Senate amendment provides for a national assessment to be conducted by the Secretary through studies conducted through competitive awards. An independent advisory panel must be appointed by the Secretary and this panel may submit its own analysis to the Congress. The Senate amendment, unlike the House bill, revises extensively the topics to be reviewed by this assessment.

The House recedes.

207. *National Assessment—Topics to Be Reviewed.* The Hosue bill modifies Section 403 language on what the assessment shall include to add language regarding experience in and understanding of all aspects of the industry.

The Senate amendment extensively revises the list of items to be included in the assessment, including: effect on State and Tribal administration of programs, expenditures at all levels addressing program improvement, teacher preparation and qualifications, program participation—particularly by special populations, academic and employment outcomes (Impact of educational reform, academic/vocations integration, school-to-work transition, relevancy of vocational training), employer involvement/satisfaction, impact of performance standards, impact of Federal special populations requirements, and coordination of Perkins with Adult Education Act, Family Support Act, JTPA, National Apprenticeship Act, Rehabilitation Act of 1973, and Wagner-Peyser.

The House recedes.

208. *National Assessment—Submission to Congress.* The House bill amends Section 403 by deleting subsection (b) which permitted the Secretary to analyze State plans and make suggestions for improvements and rewriting subsection (c) to provide that the assessment by the independent group will not be subject to any review before its submission to Congress.

The Senate amendment provides that the assessment will not be subject to any review outside of OERI. The President, the Secretary and the independent advisory panel may submit additional recommendations to Congress. In addition, the independent advisory panel may submit to Congress an independent analysis of the findings and recommendations of the assessment.

The House recedes.

209. *National Assessment—Consultation.* The Senate amendment, but not the House bill, requires the Secretary to consult with the appropriate committees of Congress in the design and implementation of the assessment.

The House recedes.

210. *National Assessment—Reporting Dates.* The Senate amendment, but not the House bill, requires the interim report required under Section 403 to be submitted no later than January 1, 1994, and a final report is to be submitted no later than July 1, 1994.

The House recedes.

211. *National Assessment—Funding.* The House retains the provision for current law that no more than 20% of the funds available for national research may be used for this assessment.

The Senate amendment authorizes $3 million a year for FY 1991 and 1992 for this purpose.

The Senate recedes with an amendment permitting the use of funds reserved for Title IV, Part A, research program.

212. *Research Center(s).* The House bill amends Section 404 with several technical amendments dealing with the National Center for Research and revises subparagraph (c) on successful methods.

The Senate amendment amends Section 404 to have OERI conduct a competition to establish three or more national centers after the current contract for the center expires (December 31, 1992). Applications shall be submitted to the Secretary with such information as he deems necessary.

The Senate recedes with an amendment authorizing applied research and development and dissemination and training activities, reserving 90% of the amounts reserved under Part A for these purposes of which at least two-thirds must be for research and development, and authorizing a separate line item for additional duties. A competition would be held for both activities and any applicant demonstrating a capability to carry out both activities would be given a preference. Up to 10% would be available for field initiated work, and the current award would be honored. The managers urge the Secretary, when deciding where to assign responsibility within the Department for the grant or grants to consider the need to coordinate with other labs and centers and the need to implement most effectively the changes in the Act.

The advanced technology referred to in the training and dissemination section may include such things as audio-video cassettes, electronic networking, satellite-assisted programming, computer-based conferencing, and interactive video. The managers expect that the training and leadership development will include an emphasis on training minority and women teachers and on programs and activities that aid in the development of minorities and women for leadership roles in vocational education. The managers expect that the applied research and development activities will also include an emphasis on the recruitment, education, and enhancement of minority and women vocational teachers and professionals and will include activities that aid in the development of minorities and women for leadership roles in vocational education.

213. *National Center—Responsibilities.* The Senate amendment, but not the House bill, requires the establishment of:

(a) one national center for Native American education;

The Senate recedes with the same amendment as in #212.

(b) one national center for applied research/technical assistance/training programs serving youth and

The House recedes with the same amendment as in #212.

(c) One national center for applied research/direct technical assistance & outreach/personnel enhancement/training.

The Senate amendment outlines specific criteria for the national centers described in subsections (a)(1)(C) and (a)(1)(A).

The House recedes with the same amendment as in #212.

214. *Research Center(s)—Duration.* The Senate amendment, but not the House bill, provides that each National Center will operate for a period of 5 years. Grants will be awarded annually and reviewed after 3 years. The Secretary is required to honor the current grant award to Berkeley, California.

The House recedes.

215. *Research Center(s)—Reserve.* The Senate amendment, but not the House bill, provides that each National Center may reserve up to 10% of its grant for addressing unforeseen field-initiated projects.

The House recedes.

216. *Research Center(s)—Directors.* The Senate amendment, but not the House bill, provides that each National Center shall appoint a Center Director.

The Senate recedes.

217. *Research Center(s)—General Responsibilities.* The Senate amendment, but not the House bill, provides that the National Center shall conduct research and development projects and programs with other public agencies and will disseminate information on their results as well as other available research. Applied research by the Centers shall include: economic changes, academic/vocational integration, effective practices for special populations, delivery methods, articulation between school and work, teacher and professional enhancement.

The House recedes with an amendment to add activities to the dissemination section.

218. *Research Center(s)—Definition.* The Senate amendment, but not the House bill, defines the term "Native American" for section 404.

The Senate recedes.

219. *Formula Study.* The Senate amendment, but not the House bill, adds a new section 405 to Title IV to require the Secretary to conduct a study on the formula for distribution of funds to the States under the Perkins Act. The study is to be completed by January 1, 1994.

The House recedes with an amendment requiring that the National Assessment conduct the study.

220. *Professional Development.* The House bill, not the Senate amendment, authorizes a new Section 406. Subpart 2—Professional Development—under Title IV creating a separate national program for leadership development awards, retraining of teachers, and awards for gifted and talented students. The House bill authorizes the Secretary to provide opportunities for professional staff working with vocational programs to participate in advanced study of vocational education; for teachers trained in other fields to become vocational education teachers; individuals working in the field to become teachers; and vocational educators to update their skills. The Secretary is also authorized to offer gifted and talented students internships with Federal or State agencies.

The Senate amendment authorizes the Secretary to award grants to institutions of higher education or SEAs for professional development. Grants include; leadership development stipends; teacher education fellowships for teachers wanting to update their skills; professionals in vo-tech fields who want to be teachers; teachers working in other areas who want to certify as vocational education teachers; and the offering of internships for gifted and talented voc ed students.

The Senate recedes with an amendment including the program in the Secretary's demonstration grants.

221. *Professional Development/Leadership Development Awards.* The House bill, but not the Senate amendment, under Section 406(b) authorizes the Secretary to make leadership development awards from recommendations by respective State directors. Individuals selected for awards must have had 3 or more years teaching or researching vocational education, be currently employed and have a B.A., be recommended by their employers as having leadership potential and have a commitment to return to the voc ed field. Awards shall be for no more than 3 years, and a stipend of $9,000/individual/academic year of $3,000/individual/summer session be provided for tuition, nonrefundable fees and other expenses including *dependents.*

The Senate amendment permits stipends, but does not specify an amount.

The Senate recedes with same amendment as in #220.

222. *Professional Development/Fellowships.* The House bill, but not the Senate amendment, authorizes under Section 406(c) the Secretary to award fellowships from recommendations of State directors to individuals currently employed and in need of upgrading their skills, presently certified (or within the last 10 years) as a teacher, and have past or current skills in voc ed or to individuals employed in the voc ed field who may not hold a B.A. degree and have been accepted by an institution of higher education in a program to be a voc ed teachers. Fellowships shall not be more than 2 years, and stipends under this program include expenses for tuition, fees, and other expenses for individuals and their dependents. Fellowships will be apportioned equally among the states.

The Senate recedes with same amendment as in #220.

223. *Professional Development/Fellowships—Publication.* The House bill under Section 406(c) authorizing fellowships requires the Secretary to publish a listing of the areas which currently (or in the future will) need additional personnel and of the

areas of teaching in which technical upgrading may be especially critical.

The Senate amendment authorizes the Secretary to publish a listing of the areas of vocational education which are in need of additional personnel and the areas in which technological upgrading may be especially critical. (Section 417(c))

The Senate recedes with same amendment as in #220.

224. *Professional Development/Internships.* The House bill offers under Section 406(d) internships for attracting gifted and talented vocational education students for nine months. Students must be recommended by a vocational education teacher at their school and must be provided professional supervision while doing their internships.

The Senate amendment under Section 417(c) offers internships for gifted and talented students.

The Senate recedes with same amendment as in #220.

225. *Professional Development—Authorization of Funds.* The House bill authorizes at least $5 million for the above section.

The Senate amendment authorizes funds to come from Title IV, Part B general demonstration program funding.

The House recedes.

226. *Demonstration Programs—Employment-Based Learning.* (a) The House bill amends Part B—Demonstration Programs, Subpart 1—Cooperative Demonstration Programs—by expanding the Secretary's authority to support: (a) employment-based learning programs, (b) model programs in consumer homemaking (including child growth and development centers), (c) grants to CBO partnerships to help prepare at-risk youth for health careers, and (d) agriculture action centers.

The Senate recedes.

(b) The House bill also requires the Secretary to establish one or more demonstration centers for retaining dislocated workers.

The Senate recedes with an amendment making this activity a priority in the Secretary's use of demonstration funds.

(c) The Senate amendment revises Section 411 to authorize demonstration programs under Part B of Title IV. Funds are reserved for telecommunications materials development and for lighthouse programs.

The House receds with an amendment making telecommunications a priority in the Secretary's use of demonstration funds and providing a separate authorization for lighthouse schools.

227. *Demonstration Programs—Materials Development in Telecommunications/Set Aside.* The Senate bill, but not the House amendment, reserves 5% of national demonstration program funds for materials development in telecommunications.

The Senate recedes.

228. *Demonstration Programs—Lighthouse Schools/Set Aside.* The Senate amendment, but not the House bill, reserves 20% of national demonstration program funds for lighthouse schools.

The Senate recedes.

229. *Demonstration Programs—Vocational/Academic Integration.* The Senate amendment, but not the House bill, creates a new Section 412: Demonstration Projects for the integration of Vocational and Academic Learning, which authorizes the Secretary to make grants to institutions and consortia to carry out programs using different models of curricula which integrate vocational and academic learning, providing in-service training and dissemination of information through the National Diffusion Network. In awarding the grant, the Secretary must ensure: an equitable geographic distribution of funds, that programs offer new approaches and serve special populations, and that adequate evaluation measures are employed.

The House recedes.

230. *Demonstration Programs—Dislocated Workers.* The House bill, but not the Senate amendment, requires the Secretary to establish one or more demonstration centers for the retraining of dislocated workers.

The Senate recedes with an amendment making a priority in the Secretary's use of demonstration funds.

231. *Demonstration Programs—Skilled Trades Regional Training.* The House bill retains the current Section 417 Model Centers for Vocational Education for Older Americans with only minor technical amendments.

The Senate amendment repeals the current Section 417 and replaces it with Section 414: Model Programs of Regional training for Skilled Trades, which authorizes the Secretary to make grants to regional model centers which provide training and related programs for skilled tradesmen on a regional and equitable basis.

The House recedes. The managers intend that firefighting be considered a skilled trade and that the masonry trades be given a priority in awarding grants.

232. *Demonstration Programs—Blue Ribbon Vocational Education.* Both the House bill and the Senate amendment authorize the Secretary to carry out Blue Ribbon Programs. The House bill authorizes a new Section 424 in Title IV, Part C: Technical and Occupational Data Systems. The Senate amendment repeals the current Section 415 under demonstration programs and replaces in with Blue Ribbon Vocational Education Programs.

The House recedes.

233. (a) The language of the two provisions is nearly identical with the following exceptions: "applied technology" (House) v. "vocational education" (Senate)

The House recedes.

(b) "several categories" (House) v. "a category or several categories" (Senate)

The House recedes.

(c) Include participation of special population (House) v. "emphasize the expansion or strengthening" of the participation (Senate)

The House recedes.

(d) include the following (House) v. "give special consideration to any of" the following (Senate)

The House recedes.

(e) addition of "area vocational school, intermediate educational agency, Bureau of Indian Affairs" to eligible entities (Senate

The House recedes.

234. *Demonstration Programs—Materials Development in Telecommunications.* The Senate amendment, but not the House bill, authorizes a new Section 416 under Title IV, Part B Demonstration Programs to require the Secretary to make grants from the set-aside to non-profit educational telecommunications entities to pay 50% of the costs to develop materials and services for use in local programs. Priority will be given to programs serving area vocational schools, teachers in need of retraining, out of school adults in need of basic skills/GED, colleges in tech-programs, and workers in need of basic or upgraded skills.

The House recedes with an amendment making it a priority in the Secretary's use of demonstration funds.

235. *Demonstration Programs—Lighthouse School.* The Senate amendment, but not the House bill, authorizes a new Section 419 for Vocational Education Lighthouse Schools which requires the Secretary to make grants to local schools from the 20% set-aside to establish and operate vocational education lighthouse schools. Such schools will serve as model programs, provide information and assistance to other grant recipients, develop comprehensive linkages with other schools, and develop model approaches for meeting the educational needs of special populations.

The Senate recedes with an amendment providing a separate authorization for lighthouse schools.

236. *Demonstration Programs—Career and Guidance Counseling.* The House bill provides for a separate authorization for career and guidance counseling programs.

The Senate amendment authorizes a new Section 420 under national programs for Career Guidance and Counseling Program. The Secretary is authorized to make grants to State boards to improve, expand and extend career guidance and counseling programs. Programs shall be organized and administered by certified counselors and designated to help individuals acquire career skills, make transition from school to work, maintain marketability of skills—including new, high-tech fields, develop mid-career job skills, and obtain & use information on financial aid for voc ed training.

The Senate recedes.

237. *Demonstration Programs—Dropout Prevention.* The Senate amendment, but not the House bill, authorizes the new Section 420A to permit the Secretary to make grants to partnerships for the development and implementation of vocational program designed to prevent students from dropping out of school.

The House recedes.

238. *Business-Labor-Education Committees for Competency Standards.* The House bill, but not the Senate amendment, adds a new Subpart 5—Development of Business and Education Standards, of which Section 419 requires the Secretary to establish a program to assist industries to develop national standards for competencies in industries and trade. Committees will be established to formulate such standards, and each grant recipient must submit a grant application and provide a 50/50 funding match for the committee. Minimum elements of standards are included in the bill.

The Senate recedes with amendments providing for consultation with the Secretary of Labor, adding this program to the list of demonstration programs, and making the activity permissive, not mandatory.

239. *Standards.* The House bill, but not the Senate amendment, requires the Secretary to establish a program to assist industries to develop national standards for competitiveness in industries and trade.

The Senate recedes.

240. *Data Systems.* Both the House bill and the Senate amendment amend Section 421, requiring the Secretary to establish a vocational education day system no more than 6 months after implementation of this Act. The language is similar with a few technical disagreements and the following exceptions:

(a) Establishment. The House bill calls for the establishment of a data system.

The Senate amendment calls for the implementation of developing such a system.

The Senate recedes.

(b) *Tribal Agencies.* The Senate amendment, but not the House bill, includes tribal agencies among the agencies for which data is to be provided.

The House recedes.

(c) *Elements/Facilities.* The House bill requires the collection of information on women, and Indians

The Senate recedes.

241. The House bill requires the collection of information on facilities. The Senate amendment provides for the collection of information on students and programs, as well as to the extent practicable on facilities.

The House recedes on including students.

The Senate recedes on deleting "to the extent practicable" on facilities.

242. *National Center & Office.* The House bill requires the Secretary to update the data system *in consultation with* the National Center for Research in Vocational Education-Applied Technology and the Office of Vocational Education.

The Senate amendment requires update of the system *through* the National Center and Office.

The Senate recedes.

243. The House bill, but not the Senate amendment, requires information on women and Indians.

The Senate recedes.

244. The House bill requires the Secretary to update the data system in consultation with the National Center for Education Statistics and with the Office of Vocational Education, whereas the Senate amendment requires maintenance of the system through the National Center and Office.

The Senate recedes.

245. *Local Applications.* The House bill requires that the system use data definitions in common for performance standards, local applications, and evaluations required by this Act.

The Senate amendment refers to common data definitions for performance evaluation and "other" evaluations.

The Senate recedes.

246. *Advisory Task Force.* The House bill requires the Secretary to "establish" an Applied Technical Education Advisory Task Force.

The Senate amendment requires the Secretary to "convene" such a Task Force.

The Senate recedes.

247. *Task Force Membership.* The Senate amendment, but not the House bill, requires that representatives of Tribal agencies, adult training programs, apprenticeships, business, and industry be represented on the task force.

The House recedes.

248. The House bill uses the phrase "nationally scientific subsample" while the Senate bill uses the phrase "nationally representative subsample"

The House recedes.

249. *Data Systems—Authorization.* The House bill reserves a minimum of $1 million from the 2% of total funds authorized for National programs for the data system.

The Senate amendment reserves 3.5% of the accounts reserved for national programs.

The House recedes with an amendment reserving 8% of the 40% reserved for Part C which is equivalent to 3.2% of the amount reserved for national programs for this activity.

250. *National Occupational Information Coordinating Committee (NOICC).* Both bills provide nearly identical provisions. There are a few technical differences:

"(1) by striking 'Sec. 422.';" (House)

"(ii) by striking 'and' at the end thereof;" (Senate)

"and Tribal agencies" (Senate)

The House recedes.

251. *NOICC—Voluntary Data Submission.* Both bills authorize a study of wage data by NOICC.

The Senate amendment, but not the House bill, requires the Submission of this data to be voluntary and may involve reimbursement to State employment agencies and compliance with safeguards.

The House recedes with the amendment to permit States to include individual elements in the longitudinal study provided the respective State assumes its share of the cost for its additional elements.

252. *NOICC—FUNDING.* The House bill reserves not less than $6 million for the functions of the NOICC and SOICCs.

The Senate amendment reserves 22% of the national funds under the Perkins Act.

The House recedes with an amendment which holds the National Occupational Information Coordinating Committee (NOICC) harmless at the FY 1990 level; after the 1990 hold-harmless, at least 10% of the NOICC funds will be available for the demonstration longitudinal occupational data study.

The Managers intend that funding for this longitudinal occupational information demonstration program should not adversely affect the normal program activities of the State Occupational Information Coordinating Committees or the operation of the national office and related national activities by the National Occupational Information Coordinating Committee.

253. *Information Base.* The House bill, but not the Senate amendment, requires that specific information on secondary school students with handicaps be included in the data system. The type of information to be collected is specified. The House bill also requires that GAO conduct a study of the effects of these amendments on special populations and, to the extent practicable, foster children issues to be considered in the GAO study are specified. The report must be submitted no later than July 1, 1995. Further, the House bill requires the Office of Technology Assessment to conduct an assessment of the technical knowledge levels of students finishing secondary school. The OTA report must be submitted no later than September 30, 1994. Lastly, the House bill requires the Secretary to secure the required information at reasonable cost. States are required to cooperate with the Secretary in implementing information systems.

The Senate recedes.

254. *National Council on Vocational Education.* The House bill repeals the National Council on Vocational Education on the date of enactment.

The Senate amendment repeals the National Council on October 1, 1992.

The House recedes with an amendment limiting the council to one year until October 1, 1991.

255. *National Council—Appointment of Members.* The Senate amendment, but not the House bill, provides that Council members will be appointed by the Council itself rather than by the President (as is the case in current law), as of September 30, 1991.

The Senate recedes.

256. *National Programs—Distribution of Assistance/Demonstrations.* The House bill reduces the funds reserved for national programs for demonstration projects from 35% to 20%.

The Senate amendment reduces the funds reserved for national programs for demonstration projects from 35% to 33.5%.

The House recedes with an amendment reserving 30%.

257. *National Programs.* The House bill and the Senate amendment change the distribution of funds reserved for national programs in the following manner:

(a) the House bill, but not the Senate amendment, reduces the amount for research from 35% to 30%.

The Senate recedes.

(b) the House bill reduces demonstration projects from 35% to 20%, while the Senate amendment reduces the amount of 33.5%.

The House recedes with an amendment reserving 30%.

(c) The House bill increases data systems from 30% to 50% while the Senate amendment increases the amount to 31.5%; of this amount, the Senate amendment reserves:

1. 3.5% for the new data system;

2. 1.75% for the study of the within-state allocation formula; and

3. 3.5% for the National Network for Curriculum Coordination.

The Senate recedes with an amendment reserving 40%; of the amounts reserved, at least 8% will be made available for data systems and at least 10% for the National Network for Curriculum Coordination. The managers intend that the Department may choose to require different data collections for secondary, postsecondary, and adult programs due to their different characteristics.

258. *National Programs—Distribution of Assistance/Data Systems.* The House bill increases the funds reserved for national programs for data systems from 30% to 50%.

The Senate amendment increases the funds reserved for national programs for data systems from 30% to 31.5%.

The Senate recedes with an amendment reserving 40%.

259. *National Programs—Distribution of Assistance/Data Systems Implementation.* The Senate amendment, but not the House bill, requires that at least 3.5% of the 31.5% for data systems be spent in implementing the new system.

The House recedes with an amendment reserving 8% of the 40% for data systems.

260. *National Programs—Distribution of Assistance/State Allocation Formula Study.* The Senate amendment, but not the House bill, requires that at least 1.75% of the 31.5% for data systems be spent on the study of the within State allocation formula.

260. The Senate recedes.

261. *National Network for Curriculum Coordination.* The Senate amendment, but not the House bill, requires the establishment of a National Network for Curriculum Coordination consisting of six regional curriculum centers.

The House recedes.

262. *Matching Requirements.* Both the House bill and the Senate amendment eliminate the overall matching requirement from the Perkins Act, but different provisions are applied to administrative funding.

The House recedes.

263. *Matching Requirements/Administrative Funding.* The House bill requires each State to maintain its previous year's level of funding for administration.

The Senate amendment requires a State match for any Perkins fund used administration.

Combine House and Senate provisions.

264. *Maintenance of Effort.* The House bill, but not the Senate amendment,

changes the maintenance of effort provision from 100% maintenance to not less than 95%.

The House recedes with an amendment regarding a waiver in unusual economic circumstances to no less than 95% for one year only and returning in second year to previous level.

265. *Federal Regulations—Regional Meetings.* The House bill requires the Secretary to convene regional meetings before issuing proposed regulations.

The Senate amendment requires the Secretary to convene regional meetings in the development of proposed regulations.

The House recedes.

266. *Federal Regulations—Regional Meetings/Participants.* The Senate amendment, but not the House bill, requires the inclusion of Tribal administrators and members of special populations in regional meetings to assist with the development of proposed regulations.

The House recedes.

267. *Federal Regulations—Regional Meetings/Issues.* The Senate amendment, but not the House bill, requires that the regional meetings provide for comprehensive discussion of at least for key implementation issues, selected by the Secretary. This information will be taken into account in the development of regulations and will be summarized in the *Federal Register* when proposed regulations are published.

The House recedes.

268. *Federal Regulation—Regional Meetings/Post-Regulation.* The Senate amendment, but not the House bill, requires that the Secretary convene regional meetings after final regulations are issued for the purpose of sharing information about their implementation. Individuals and groups involved in vocational education must be included in these meetings.

The Senate recedes.

269. *Federal Regulations—Negotiated Rulemaking.* The House bill, but not the Senate amendment, requires that—after holding regional meetings and before publishing proposed regulations—the Secretary must submit draft regulations on a limited number of issues to a negotiated rulemaking process. Participants in the process will be selected by the Secretary from among regional meeting participants. The process is to be completed in a timely fashion.

The Senate recedes with an amendment requiring that at least two key issues be identified, that 10 representatives—one from each of the Department's 10 geographical regions in the country—be invited to the negotiations, and permitting the Secretary to use up to $300,000 of national program funds for the negotiated rulemaking process.

270. *Federal Regulations—Waiver.* The House bill, but not the Senate amendment, permits regional meeting and negotiated rulemaking requirements to be waived in cases where a regulation must be issued quickly to assist State and local program operation. The Secretary must immediately convene regional meetings to review the regulation before it is finalized.

The Senate recedes.

271. *GAO Investigations.* The House bill, but not the Senate amendment, requires GAO to investigate any delay by the Secretary in submitting any report, research finding, or regulation by the time required by the Act. A report on findings—including identification of the ED or OMB office responsible for the delay—is to be submitted to the appropriate committees of Congress.

The Senate recedes with an amendment making the requirement contingent upon the request of any member of Congress.

272. *Availability of Reports.* The House bill, but not the Senate amendment, requires the Secretary to make available to the chairmen and ranking minority members of the House and Senate committees—upon request—any report or research required by the Act within ten days of the request.

The House recedes.

273. *Sex Equity/Homemakers Program.* The House bill, but not the Senate amendment, requires the Secretary biennially to determine if funds are being properly administered by the States in the sex equity and homemakers program and to take any corrective action required.

The House recedes.

274. *Civil Rights.* The House bill states that nothing in the Act shall be construed as being inconsistent with appropriate Federal civil rights laws.

The Senate amendment requires each State to certify in its application that the State and local school districts will not discriminate (on the basis of race, religion, color, national origin, sex, or handicap) against employees, students enrolling in or taking courses, or students involved in extra curricular activities. The Assistant Secretary for Civil Rights must determine whether these assurances have been met.

The Senate recedes.

275. *Name.* The House bill, but not the Senate amendment, makes clear that the new name of applied technology education does not have to apply to any vocational student organization; and administrator, counselor, or teacher paid from non-Federal funds; or any school.

The Senate recedes.

276. *Student Aid.* The House bill, but not the Senate amendment, bars the consideration of any student aid (for attendance costs) received under the Perkins Act from being considered in determining eligibility for assistance under other Federal programs. Attendance costs include tuition & fees (including costs for rental or purchase of equipment, materials, or supplies required of all students) and an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for at least half-time students.

The Senate recedes.

277. *State Administration—Audits.* The House bill, but not the Senate amendment, requires each State to obtain financial and compliance audits of Perkins Act funds at least every 2 years and to make these audits public.

The House recedes.

278. *State Administration—Regulations.* The House bill, but not the Senate amendment, requires each State to establish a State Committee of Practitioners to review any proposed or final State regulation issued pursuant to the Perkins Act. Members of the Committee shall be selected from nominees made by state organizations and institutions and shall include: LEA representatives (which shall be a majority of members), school administrators, teachers, parents, local board of education members, and representatives of institutions of higher education. In certain cases, this requirement may be waived to permit issuance of a proposed regulation; however, a meeting of the committee must be convened immediately to review the regulation before it is finalized.

The Senate recedes with an amendment adding "student".

279. *State Administration—State-Imposed Requirements.* The House bill, but not the Senate amendment, requires that any State rule or policy related to the program be identified as a State-imposed requirement.

The Senate recedes.

280. *Joint Funding.* The House bill but not the Senate amendment, authorizes use of Perkins funds as additional funds in four other Federal programs (Audit Education, JTPA, Rehabilitation Act of 1973, Wagner/Peyser) if: such program otherwise meets the requirements of the Perkins Act such funds are not required to be provided from non-Federal sources, and funds are used to supplement and not supplant funds from non-federal sources. Regulations related to this section are to be developed by the Secretary in consultation with the Secretary of Labor and the Secretary of HHS.

The Senate recedes with an amendment permitting joint funding from the Perkins, JTPA, and Wagner-Peyser Acts if the program meets the requirements of the applicable acts and if the same clients are served.

281. *Prohibition.* The House bill, but not the Senate amendment, prohibits Perkins funds from being used to induce an employer to relocate from one State to another if such relocation would result in a job loss.

The Senate recedes.

282. *State Administrative Costs/Maintenance of Effort.* The House bill, not the Senate amendment, requires that States provide non/Federal funds for program administration in an amount no less that provided in the previous fiscal year.

The Senate recedes.

283. *Federal Monitoring.* The Senate amendment, but not the House bill, includes a section specifying how the Secretary should monitor State and local compliance with the Act. Monitoring activities are to be development in consultation with parents, students, and advocacy organizations. Specific items to be monitored are cited in the section.

The House recedes.

284. *Definitions—Apprenticeship Training.* The Senate amendment, but not the House bill, strikes "program" from the term "apprenticeship training program.

The Senate recedes.

285. *Definitions—Applied Technology Education.* The House bill, but not the Senate amendment, revises the definition of vocational education to re-label it "applied technology education"and defines the term to require the offering of a sequence of courses, to eliminate reference to particular occupations, to eliminate reference to additional preparation for a career in particular occupations, to eliminate references to vocational student organizations, to eliminate specific reference to payment for instruction and acquisition of equipment, and to include competency-based applied learning in the definition.

The Senate recedes with an amendment retaining the term "vocational" and indicating the term includes applied technology education.

286. *Definitions—Area Schools.* The Senate amendment, but not the House bill, revises the definition of area school to eliminate specific reference to technical institutions or schools for individuals who have completed or left high school, and divisions of community colleges for students having completed or left high school, and to include schools offering both secondary and postsecondary instruction if the secondary instruction involves at least five different occupational fields.

The House bill, but not the Senate amendment, guarantees that any program fitting the definition of area school before the enactment of these amendments will continue to be so considered.

The Senate recedes.

287. *Definitions—Economically Depressed Areas.* The Senate amendment, but not the House bill, eliminates the definition of economically depressed area.

The House recedes.

288. *Definitions—Handicapped/Disabled.* The House bill renames "handicapped individuals" as "individuals with handicaps."

The Senate amendment renames them "individuals with disabilities."

The Senate recedes with an amendment conforming the definition to the definition of an "individual with any disability" included in the Americans with Disabilities Act.

289. *Definitions—Disadvantaged.* The House bill, but not the Senate amendment, limits the term disadvantaged to only those economically disadvantaged and also assure that any individual determined to be economically disadvantaged under JTPA would be so considered under the Perkins Act.

The House recedes.

290. *Definitions—Intermediate Educational Agency.* The Senate amendment, but not the House bill, includes a definition of an intermediate educational agency.

The House recedes.

291. *Definitions—All Aspects of the Industry/General Occupational Skills.* The Senate amendment defines the term "all aspects of the industry" as strong experience in and understanding of all aspects of the industry, including planning, management, finances, technical and production skills, underlying principles of technology, and health and safety. (See Page 191).

The House bill defines the term "general occupational skills" as experience in and understanding of all aspects of the industry, including planning, management, finances, technical and production skills, underlying principles of technical, *labor and community issues,* and health, safety, and *environmental issues.*

The House recedes on "all aspects of the industry".

The Senate recedes on "general occupational skills".

292. *Definitions—Local Eligible Recipient.* The Senate amendment, but not the House bill, redefines "eligible recipient" to mean an LEA, an area school, an intermediate agency, or a State correctional education agency. The term "eligible recipient" under current law is defined as "an LEA or a postsecondary educational institution."

The Senate recedes with an amendment to include a LEA area vocational education school, intermediate education agency, State corrections agency, a postsecondary educational institution, or an eligible institution (as defined in Section 232(d)(1)).

293. *Definitions—Supplementary Services.* The Senate amendment, but not the House bill, defines supplementary services.

The House bill, but not the Senate amendment, defines general occupational skills.

The House recedes on "supplementary services".

The Senate recedes on "general occupational skills".

294. *Definitions—Displaced Homemaker.* The Senate amendment, but not the House bill, specifically includes criminal offenders as displaced homemakers if they otherwise qualify.

The House recedes.

295. *Definitions—Preparatory/Pre-Vocation.* The House bill defines "preparatory services."

The Senate bill offers the same definition for "prevocation services."

The Senate recedes.0

296. *Definitions—Homemaker.* The House bill, but not the Senate amendment, adds to the definition of homemaker eligibility, an adult who is pregnant.

The Senate recedes.

297. *Definitions—Special Populations.* The House bill, but not the Senate amendment, defines special populations. The definition includes individuals with handicaps, disadvantaged individuals, individuals of limited English proficiency, and foster children on whose behalf State or local governmental payments are made.

The Senate recedes with amendments to include as special populations economically and educationally disadvantaged individuals (including foster children), individuals with handicaps, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions. The managers do not intend that these changes result in any double counting of foster children.

298. *Definitions—Sequential Course of Study.* The Senate amendment, but not the House bill, includes a new definition for "sequential course of study."

The House recedes.

299. *Definitions—Technology Education.* The Senate amendment, but not the House bill, includes a new definition for "technology education."

The House recedes.

300. *Definitions—Specific Job Training.* The Senate amendment, but not the House bill, includes a new definition for "specific job training."

The House recedes.

301. *Definitions—State Correctional Education Agency.* The Senate amendment, but not the House bill, includes a new definition for "State correctional education agency."

The House recedes.

302. *Correctional Education.* The Senate amendment, but not the House bill, creates an Office of Correctional Education in the Department in order to coordinate all correctional education programs, and to provide technical support.

The House recedes with an amendment requiring data collections on a sample basis.

303. *Intergovernmental Advisory Council.* The Senate amendment, but not House bill, repeals the requirement for an intergovernmental advisory council on education within the Department of Education.

The House recedes.

304 *Advisory Board on International Education.* The Senate amendment, but not the House bill, repeals the requirement for an advisory board on international education.

The House recedes.

305. *Effective Date—In General.* The House bill provides for immediate implementation of the amendments, but permits States to abide by the old or new law until July 1, 1990. The Senate amendment provides in general for July 1, 1991, as the effective date.

The House recedes.

306. *Effective Date—Indian Programs.* The Senate amendment, but not House bill, provide that the amendments to the Indian and Hawaiian programs take effect on October 1, 1990, except for the 1/12 of the 2% setaside for secondary Indian and Hawaiian schools (which take effect July 1, 1991).

The House recedes.

307. The House bill provides for immediate implementation of the amendments but permits States to abide by the old or new law until July 1, 1990. The House bill also requires all orders, regulations, grants, and contracts under the Perkins Act to remain in effect until modified or revoked.

The House recedes.

308. *Education in Federal Republic of Germany.* The Senate amendment, but not the House bill, requires GAO to conduct a study of education in West Germany and of the desirability of establishing a nationwide job apprenticeship program in the United States. Items to be assessed and considered are specified in the amendment. The report is due no later than one year after enactment.

The House recedes with amendments.

309. *Tribally Controlled Institutions.* The House bill, but not the Senate amendment, authorizes a new program within the Department of Interior supporting tribally controlled postsecondary institutes. The provision stipulates eligibility criteria, the process for review of applications, and the method for determining the amount of each grant. There is also a provision relating to a study for needed facilities. Currently functioning programs would have priority funding. Authorization is for $4 million in FY 1990 and such sums for the five succeeding fiscal years, and could be forward funded.

The Senate recedes with an amendment requiring the Department of Education to administer the program, moving the program to the Perkins Act, and changing the authorization date to FY 1991. The managers intend that these funds be considered basic support monies for these schools, to defray the basic operating expenses of the program. Receipt of funds under this program should not be interpreted, either by the Department of Education or any other Federal entity, in any way so as to interfere with receipt of, or application for, funds from any Federal, State or other source. Also, receipt of funds under this program should not lead to a decrease in the receipt of other funds, either by the school, its students, or the tribe sanctioning its operation.

310. *Tribal Economic Development.* The House bill, but not the Senate amendment, amends the Tribally Controlled Community Colleges Act to add a new activity related to economic development under the Department of Interior. The new authority would fund joint Tribal/Tribally Controlled Community College projects to identify resources of tribes, develop plans to develop those resources, and provide the training technical assistance and support necessary to put the plans into effect. The authorization is $2 million for FY 1990 and such sums for the five succeeding fiscal years.

The House bill, but not the Senate amendment, also amends the Tribally Controlled Community Colleges Act by requiring the Secretary of the Interior to enter into a contract with the tribally controlled community colleges to assess their facility needs, construct a priority listing for facilities and periodically update such listing.

311. (a) The House bill, but not the Senate amendment, amends the Tribally Controlled Community Colleges Act to add a new activity related to economic development under the Department of Interior. The new authority would fund joint Tribal/Tribally Controlled Community College projects to identify economic resources of tribes, develop plans to develop those resources, and provide the training, technical assistance and support necessary to put the

plans into effect. The authority is $2 million for FY 1990, and such sums for the five succeeding fiscal years.

The Senate recedes.

(b) The House bill, but not the Senate amendment, also amends the Tribally Controlled Community Colleges Act by requiring the Secretary of the Interior to enter into a contract with the tribally controlled community colleges to assess their facility needs, construct a priority listing for facilities and periodically update such listing.

The Senate recedes.

312. *Secondary Students in BIA Schools.* The House bill, but not the Senate amendment, modifies the Indian Student Equalization Formula, which funds schools funded by the BIA, by adding a weighted factor for secondary vocational education, subject to availability of funds.

The House recedes.

313. *Indian and Native Hawaiian Programs.* The House bill, but not the Senate amendment, prohibits the Secretary of the Interior from placing any restrictions on programs receiving Perkins funds that are not placed on States receiving such funds. The Secretary of the Interior is also charged with encouraging tribal economic development with funds reserved for Indian programs under the Perkins Act.

The House recedes.

314. *School Prayer.* The House bill, but not the Senate amendment, prohibits any funds in this Act, to be made available to any State or school district having a policy denying or effectively preventing participation in prayer in public schools by individuals on a voluntary basis.

The House recedes.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
TOM SAWYER,
DONALD M. PAYNE,
NITA LOWEY,
GLENN POSHARD,
JOLENE UNSOELD,
NICK RAHALL,
BILL GOODLING,
TOM PETRI,
STEVE GUNDERSON,
STEVE BARTLETT,
HARRIS W. FAWELL,
FRED GRANDY,
PETER SMITH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
THAD COCHRAN,
JAMES M. JEFFORDS,
STROM THURMOND,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(By unanimous consent, leave of absence was granted to:)

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of medical reasons.

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. FIELDS, for 60 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. PARRIS, for 60 minutes each day, on August 3 and September 5, 6, 11, 12, and 13.

Mrs. SAIKI, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, on August 4.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of Utah, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. GUARINI, for 5 minutes, today.

Mr. TAUZIN, for 60 minutes, on August 3.

Mr. MCCURDY, for 60 minutes, on August 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. SCHUETTE in three instances.

Mr. MCEWEN.

Mr. MACHTLEY in three instances.

Mr. GINGRICH in two instances.

Mr. PORTER in two instances.

Mr. PURSELL.

Mr. LEWIS of California in two instances.

Mr. KYL.

Mr. CRANE.

Mr. CALLAHAN.

Mr. SOLOMON in two instances.

Mr. MCGRATH.

Mr. OXLEY in two instances.

Mr. WALKER.

Mr. MCCANDLESS.

Ms. SCHNEIDER.

Ms. ROS-LEHTINEN.

Mr. FRENZEL.

Mr. RITTER.

Mr. WHITTAKER.

Mr. MCCOLLUM.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. KOSTMAYER.

Mr. MILLER of California.

Mr. STARK in two instances.

Mr. MONTGOMERY.

Mr. VISCLOSKY.

Mr. TORRES.

Mr. MAZZOLI in two instances.

Mr. KANJORSKI.

Mr. SOLARZ.

Mr. NELSON of Florida in two instances.

Mr. STOKES.

Mr. BONIOR.

Mr. FOGLIETTA.

Mr. TALLON.

Mr. DYMALLY.

Mr. RAHALL.

Mr. DE LA GARZA.

Mr. THOMAS A. LUKEN.

Ms. LONG.

Mr. CARDIN.

Mr. TORRICELLI.

Mr. KOLTER in two instances.

Mr. LEVINE of California.

Mr. DYSON.

Mr. MCMILLEN of Maryland.

Mr. ESPY.

Mr. GUARINI.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 293. An act to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard, and

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1046. An act to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scencic Rivers System, and for other purposes;

S. 1524. A act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

S. 1543. An act to authorize the Board of Gumston Hall to establish a memorial to George Mason in the District of Columbia;

S. 1875. An act to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area;

S.J. Res. 77. Joint resolution recognizing the National Firefighters' Memorial at the National Fire Academy in Emittsburg, Maryland, as the offical national memorial to volunteer and career firefighters who die in the line of duty;

S.J. Res. 256. Joint resolution to designate the week of October 7, 1990, through Octo-

ber 13, 1990, as "Mental Illness Awareness Week"; and

S.J. Res. 316. Joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

ADJOURNMENT

Mr. MOODY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 10 minutes p.m.) the House adjourned until tomorrow, Friday, August 3, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3658. A letter from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting a preliminary report detailing specific factors and trends responsible for recent variation in Food Stamp Program estimates; to the Committee on Agriculture.

3659. A letter from the Deputy Assistant Secretary (Acquisition), Department of the Air Force, transmitting notification of the plan to study the conversion to contractor performance of the Strategic Air Command's radar bomb scoring sites and six mobile duty location sites, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

3660. A letter from the Secretary of Education, transmitting a report on defining literacy and the national adult literacy survey, pursuant to Public Law 100-297, section 2102 (102 Stat. 318); to the Committee on Education and Labor.

3661. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Belgium for defense articles and services (Transmittal No. 90-54), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3662. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Norway for defense articles and services (Transmittal No. 90-55), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3663. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 90-56), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3664. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Denmark for defense articles and services (Transmittal No. 90-57), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3665. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the allocation of funds for economic support fund assistance, pursuant to 22 U.S.C. 2413(a); to the Committee of Foreign Affairs.

3666. A letter from the Archivist of the United States, transmitting a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund; a report concerning records management activities for the fiscal year ending September 30, 1989, pursuant to 44 U.S.C. 2106 and 2904(c)(8); to the Committee on Government Operations.

3667. A letter from the Acting Executive Director, National Commission on Libraries and Information Science, transmitting a report pursuant to the Inspector General Act for the 1989 fiscal year; to the Committee on Government Operations.

3668. A letter from the Director, Close Up Foundation, transmitting the semiannual report on the Civic Achievement Award Program covering the period from January 1, 1990 to June 30, 1990, pursuant to Public Law 100-158, section 3(b) (100 Stat. 897); to the Committee on House Administration.

3669. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3670. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3671. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to utilize fees collected for the evaluation of permissible mine explosives, and for other purposes; to the Committee on Interior and Insular Affairs.

3672. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to designate a segment of the Little Bighorn River in Wyoming as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

3673. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting copies of the report of the Attorney General regarding activities initiated pursuant to the Civil Rights of Institutionalized Persons Act during fiscal years 1988 and 1989, pursuant to 42 U.S.C. 1997f; to the Committee on the Judiciary.

3674. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of a decision ordering a grant of defector status, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3675. A letter from the Treasurer, the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1989, pursuant to 36 U.S.C. 1101(19), 1103; to the Committee on the Judiciary.

3676. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notification of the proposed use of fiscal year 1989 research and development funds for the design and construction of an addition to the Avionics Systems Laboratory, Building 16, at NASA' Johnson Center, pursuant to Public Law 100-685, section 203 (102 Stat. 4089); to the Committee on Science, and Technology.

3677. A letter from the Director, Office of Environmental Restoration and Waste Management, Department of Energy, transmitting notification that the report which summarizes the progress of States and compacts in establishing new low-level radioactive waste disposal facilities for calendar year 1989 should be completed by September 30, 1990, pursuant to 42 U.S.C. 2021g(b); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3678. A letter from the Secretary of Energy, transmitting a summary of expenditures of rebates from the law-level radioactive waste surcharge escrow account for calendar year 1989, pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3679. A letter from the Assistant Secretary for Legislative Affairs, Department of States, transmitting notice that effective July 1, 1990, the Department designated Liberia as danger pay location, pursuant to 5 U.S.C. 5928; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3680. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to provide transition assistance to military personnel separated from the Armed Services during force reductions, and for other purposes; jointly, to the Committees on Ways and Means, Veterans' Affairs, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 452. Resolution waiving certain points of order against the conference report on the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes (Rept. 101-658). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 453. Resolution providing for the consideration of H.R. 5400, a bill to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes (Rept. 101-659). Referred to the House Calendar.

Mr. HAWKINS: Committee of Conference. Conference Report on H.R. (Rept. 101-660). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 2840. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes; with an amendment; referred to the Committee on Banking, Finance and Urban Affairs and Public Works and Transportation

for a period ending not later than September 14, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (d), rule X (Rept. 101-657, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred a follows:

By Mr. FASCELL (for himself, Mr. BERMAN, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. STUDDS, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. UDALL, Mr. CLARKE, Mr. FUSTER, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. MCCLOSKEY, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. DONALD. E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. Goss and Ms. ROS-LEHTINEN:

H.R. 5431. A bill to impose sanctions on Iraq, jointly, to the Committees on Foreign Affairs; Ways and Means; and Banking, Finance and Urban Affairs.

By Mr. GONZALEZ (for himself, Mr. WYLIE, Ms. OAKAR, and Mr. SHUMWAY):

H.R. 5432. A bill to extend the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STAGGERS:

H.R. 5433. A bill to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes; to the Committee on Agriculture.

By Ms. LONG:

H.R. 5434. A bill to amend the Congressional Budget Act of 1974 to exclude the receipts and disbursements of the Unemployment Trust Fund from the calculation of deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. CARDIN (for himself and Mr. DURBIN):

H.R. 5435. A bill to make significant progress toward granting self-determination to the Baltic Republics a condition on the granting of most-favored-nation treatment to the Union of Societ Socialist Republics; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. HUNTER, Mr. MARTINEZ, Mr. PANETTA, Mr. MINETA, Mr. BROWN of California, Mr. BATES, Mr. LANTOS, Ms. PELOSI, Mrs. BOXER, and Mr. DELLUMS):

H.R. 5436. A bill to provide restoration of the Federal trust relationship with and assistance to the terminated tribes of California Indians and the individual members thereof; extend Federal recognition to certain Indian tribes in California to establish administrative procedures and guidelines to clarify the status of certain Indian tribes in California; to establish a Federal commission on policies and programs affecting California Indians; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CONYERS:

H.R. 5437. A bill to remove the Social Security trust from the deficit calculations required by the Balanced Budget and Emergency Deficit Control Act of 1985, to implement guaranteed multiyear deficit reduction, to revise the Gramm-Rudman-Hollings sequestration formula, and to provide truth-in-budgeting reforms; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. CONYERS (for himself and Mr. BROOKS):

H.R. 5438. A bill to provide accountability in the use of Presidential directives, and for other purposes; to the Committee on Government Operations.

By Mr. CONYERS (for himself, Mr. HORTON, Mrs. COLLINS, Mr. NEAL of North Carolina, Mr. LANTOS, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CLINGER, Mr. MCCANDLESS, and Mr. SHAYS):

H.R. 5439. A bill to amend the Act of March 3, 1933 (commonly known as the Buy American Act), to require the approval of the U.S. Trade Representative in order for the head of a Federal agency to waive the Buy American Act, and for other purposes; jointly to the Committees on Government Operations and Ways and Means.

By Mr. CRANE (for himself and Mr. MCCOLLUM):

H.R. 5440. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

By Mr. FAUNTROY:

H.R. 5441. A bill to require that District of Columbia prisoners incarcerated at the District Correctional Complex in Lorton, VA, be treated as residents of the District of Columbia for purposes of the decennial census of population; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL:

H.R. 5442. A bill to amend the Internal Revenue Code of 1986 to eliminate inequities and provide symmetry in certain foreign provisions, and for other purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY (for herself, Mr. GEJDENSON, and Mr. MORRISON of Connecticut):

H.R. 5443. A bill to amend title XXV of the Public Health Services Act to make an adjustment relating to minimum allotments under the program of formula grants established in such title; to the Committee on Energy and Commerce.

By Mr. LIVINGSTON (by request):

H.R. 5444. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OWENS of New York:

H.R. 5445. A bill to amend the Domestic Volunteer Service Act to provide assistance to projects which utilize volunteers to protect students and employees of educational institutions from violence and criminal activity; to the Committee on Education and Labor.

By Mr. RAHALL (for himself and Mr. CAMPBELL of Colorado):

H.R. 5446. A bill to amend the Atomic Energy Act of 1954 to clarify the power of State and local governments to regulate the disposal of radioactive material that is not other wise regulated by the Nuclear Regulatory Commission; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. SOLARZ:

H.R. 5447. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the filing of certain consumer information pertaining to religious dietary certification symbols on food labels; to the Committee on Energy and Commerce.

By Mr. STARK (for himself, Mr. DURBIN, Mr. WHITTAKER, Mr. ANDREWS, Mrs. BOXER, Mrs. COLLINS, Mr. LAFALCE, Mr. NIELSON of Utah, and Mr. BATES):

H.R. 5448. A bill to amend the Internal Revenue Code of 1986 to impose an additional occupational tax on manufacturers and importers of cigarettes and to provide that the amounts collected under this tax be used to reimburse the medicare and medicaid programs for providing care and treatment for smoking-related cancers, circulatory system diseases, and respiratory system diseases; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT (for himself, Mr. BROWN of Colorado, and Mr. RAHALL):

H.R. 5449. A bill to suspend most-favored-nation trade privileges to the Socialist Federal Republic of Yugoslavia; to the Committee on Ways and Means.

By Mr. WISE (for himself, Mr. KLECZKA, Mr. BUSTAMANTE, Mr. MCCANDLESS, Mr. CLINGER, and Mr. DYSON):

H.R. 5450. A bill to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits; to the Committee on Government Operations.

By Mr. WYDEN:

H.R. 5451. A bill to amend titles XI, XVIII and XIX of the Social Security Act to improve the dissemination of information under the Medicare and Medicaid programs to State medical boards; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. BATES (for himself, Mr. JONTZ, Mr. OWENS of New York, Mr. FAUNTROY, and Mr. BOUCHER):

H.R. 5452. A bill to establish a National Repository of International Medical Graduate Records, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RITTER (for himself, Mr. MINETA, Mr. CLINGER, Mr. TALLON, Mr. SHUSTER, Mr. KOLTER, Mr. LIPINSKI, Mr. STANGELAND, Mr. RAHALL, Mr. NOWAK, Mr. HASTERT, Mr. GRANT, Mr. DE LUGO, Mr. TRAFICANT, Ms. MOLINARI, Mr. ATKINS, Mr. AUCOIN, Mr. BATES, Mr. BEILENSON, Mrs. BENTLEY, Mr. BERMAN, Mr. BOUCHER, Mr. BROWN of California, Mr. BRUCE, Mr. CAMPBELL of California, Mr. COBLE, Mr. COYNE, Mr. DORGAN of North Dakota, Mr. DURBIN, Mr. ECKART, Mr. EDWARDS of Oklahoma, Mr. ENGEL, Mr. ENGLISH, Mr. ERDREICH, Mr. EVANS, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. GALLO, Mr. GILMAN, Mr. GONZALEZ, Mr. GOODLING, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HANSEN, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr.

HORTON, Mr. HUBBARD, Mr. HUGHES, Mr. HUNTER, Mr. JAMES, Mr. KANJORSKI, Ms. KAPTUR, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LENT, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. THOMAS A. LUKEN, Mr. MADIGAN, Mr. MARKEY, Mr. MARLENEE, Mr. MAVROULES, Mr. MCDADE, Mr. MCMILLEN of Maryland, Mr. MILLER of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. NAGLE, Mr. PENNY, Mr. PURSELL, Mr. RICHARDSON, Mr. RINALDO, Mr. ROBERTS, Mr. ROGERS, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROWLAND of Connecticut, Mr. SAWYER, Mr. SAXTON, Ms. SCHNEIDER, Mr. SCHULZE, Mr. SHAYS, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STARK, Mr. STUDDS, Mr. SWIFT, Mr. TORRICELLI, Mr. VISCLOSKY, Mr. WALGREN, Mr. WAXMAN, Mr. WELDON, Mr. WHITTAKER, Mr. WISE, Mr. WOLPE, Mr. WYDEN, and Mr. YATRON):

H.R. 5453. A bill to establish an Office of Airline Passenger Advocacy in the Department of Transportation, to amend the Federal Aviation Act of 1958 to establish minimum standards for air carrier passenger services, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas:

H. Res. 451. Resolution providing for mandatory drug testing of Members of the House of Representatives; to the Committee on House Administration.

By Mr. GILLMOR:

H. Res. 454. Resolution to amend the Rules of the House of Representatives to prohibit the Committee on Rules from reporting rules waiving the germaneness requirement; to the Committee on Rules.

By Mr. GUARINI (for himself, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANNUNZIO, Mr. APPLEGATE, Mrs. BENTLEY, Mr. BOEHLERT, Mr. BORSKI, Mr. CONTE, Mr. COURTER, Mr. DE LUGO, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. ENGEL, Mr. FASCELL, Mr. FAUNTROY, Mr. FISH, Mr. FLAKE, Mr. GALLO, Mr. GEPHARDT, Mr. GILMAN, Mr. GREEN of New York, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOUGHTON, Mr. HUGHES, Mr. IRELAND, Ms. KAPTUR, Mr. KILDEE, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LENT, Mrs. LOWEY of New York, Mr. THOMAS A. LUKEN, Mr. MCDADE, Mr. HARRIS, Mr. BEVILL, Mr. MCGRATH, Mr. MCHUGH, Mr. MCNULTY, Mr. MANTON, Mr. MARTIN of New York, Ms. MOLINARI, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. NOWAK, Mr. OWENS of New York, Mr. PALLONE, Mr. PAXTON, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. RINALDO, Mr. ROE, Mrs. ROUKEMA, Mr. SAXTON, Mr. SCHEUER, Mr. SCHUMER, Mr. SERRANO, Ms. SLAUGHTER of New York, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. SOLOMON, Mr. TORRICELLI, Mr. TOWNS, Mr. WALSH, Mr. WEISS, Mr. WOLF, Mr. YATRON, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. GEKAS, and Mr. SMITH of Florida):

H. Res. 455. Resolution expressing the sense of the House of Representatives that October 1990 should be designated as "National Ellis Island Month"; to the Committee on Post Office and Civil Service.

By Mr. WALKER:

H. Res. 456. Resolution concerning the United States position on environmental protection at the 1992 United Nations Conference on Environment and Development in Brazil; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

483. By the SPEAKER: Memorial of the Legislature of the State of California, relative to maritime safety; to the Committee on Merchant Marine and Fisheries.

484. Also, memorial of the Legislature of the State of California, relative to oil tankers; to the Committee on Merchant Marine and Fisheries.

485. Also, memorial of the Legislature of the State of California, relative to U.S. Census postenumeration surveys of Asian and Pacific Islander Americans; to the Committee on Post Office and Civil Service.

486. Also, memorial of the Legislature of the State of California, relative to a veterans' center for Butte County; to the Committee on Veterans' Affairs.

487. Also, memorial of the Legislature of the State of California, relative to Martha Raye; to the Committee on Post Office and Civil Service.

488. Also, memorial of the Legislature of the State of California, relative to radiation and chemical contamination; jointly, to the Committees on Energy and Commerce and Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 98: Mr. OLIN, Mr. SCHAEFER, Mr. LEATH of Texas, Mr. CALLAHAN, Mr. APPLEGATE, Mr. KILDEE, Mr. MOODY, Mr. SERRANO, Mr. MARLENEE, Mr. MADIGAN, Mrs. JOHNSON of Connecticut, Mr. MCHUGH, Mr. SUNDQUIST, Mr. SKEEN, Mr. LEHMAN of California, Mr. SOLOMON, Mr. SAVAGE, Mr. DICKS, Mr. MCMILLAN of North Carolina, Mr. HERTEL, Mr. SCHEUER.

H.R. 446: Mr. STALLINGS.

H.R. 753: Mr. RANGEL.

H.R. 796: Mr. WALSH, Mr. LEHMAN of Florida, Mr. SLAUGHTER of Virginia, and Mr. HEFLEY.

H.R. 1268: Mr. ECKART and Mr. GUARINI.

H.R. 1578: Mr. BROWN of Colorado.

H.R. 1845: Mr. TORRICELLI.

H.R. 2285: Mr. MRAZEK.

H.R. 2395: Mr. KOLBE and Mr. SHARP.

H.R. 2436: Mr. SMITH of New Jersey, Mr. MARTIN of New York, Mr. TORRICELLI, and Mr. PAYNE of New Jersey.

H.R. 2589: Mr. GRANDY.

H.R. 2699: Mr. MINETA.

H.R. 2816: Mr. HILER and Mr. WELDON.

H.R. 3050: Mr. WALSH.

H.R. 3200: Mr. RICHARDSON, Mrs. UNSOELD, and Mr. DOWNEY.

H.R. 3252: Mr. CONTE.

H.R. 3270: Mr. VANDER JAGT, Mr. SWIFT, Mr. BRYANT, Mr. SHAW, and Mr. MCNULTY.

H.R. 3383: Mr. LAGOMARSINO and Mr. BROWN of California.

H.R. 3483: Mr. VALENTINE.

H.R. 3488: Ms. PELOSI and Ms. KAPTUR.

H.R. 3862: Mr. DWYER of New Jersey.

H.R. 3880: Mr. DELLUMS.

H.R. 3922: Mr. CHAPMAN.

H.R. 3978: Mr. CLARKE.

H.R. 3999: Mr. SKAGGS, Mr. CROCKETT, and Mr. SAWYER.

H.R. 4006: Mr. FISH.

H.R. 4125: Ms. SLAUGHTER of New York, Mr. TALLON, Mr. GORDON, Mr. BEVILL, Mr. WEISS, and Mr. GLICKMAN.

H.R. 4131: Mr. WEISS.

H.R. 4249: Mr. CONDIT, Mr. FOGLIETTA, Mrs. VUCANOVICH, Mr. FRANK, Mr. LEWIS of Georgia, Mr. VANDER JAGT, Mr. VOLKMER, Mr. TAUKE, Mr. JAMES, Mr. FAZIO, Mr. LEWIS of California, Ms. PELOSI, and Mr. SHUMWAY.

H.R. 4287: Mr. LANCASTER, Mr. GOODLING, Mr. COSTELLO, Mr. HUGHES, Mr. LIVINGSTON, Mr. LAGOMARSINO, Mr. PURSELL, Mr. HENRY, Mr. WELDON, and Mr. CROCKETT.

H.R. 4292: Mr. SCHUETTE, Mr. JAMES, Mr. SENSENBRENNER, Mr. HERGER, and Mr. WOLF.

H.R. 4367: Mr. DICKINSON.

H.R. 4515: Mr. ENGEL.

H.R. 4565: Mr. PACKARD, Mr. BATEMAN, Mr. SCHIFF, and Mr. EMERSON.

H.R. 4621: Mr. EVANS, Mr. ROE, and Mr. KOLTER.

H.R. 4675: Mr. COX, Mr. MURPHY, and Mr. TOWNS.

H.R. 4690: Mr. HANSEN and Mr. ROSE.

H.R. 4772: Mr. GEKAS and Mr. GILLMOR.

H.R. 4868: Mr. BEILENSON and Mr. MFUME.

H.R. 4948: Mr. SMITH of Iowa.

H.R. 4954: Mr. PICKETT.

H.R. 4964: Mr. STUMP.

H.R. 4972: Mrs. MARTIN of Illinois.

H.R. 4997: Mr. BRUCE, Mr. COLEMAN of Missouri, Mr. SMITH of Iowa, and Mr. STALLINGS.

H.R. 5007: Mr. JOHNSON of South Dakota.

H.R. 5013: Mr. STALLINGS.

H.R. 5030: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, and Mr. GRANT.

H.R. 5031: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5032: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5033: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, and Mr. LEWIS of Florida.

H.R. 5034: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5035: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5036: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5037: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5038: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. DUNCAN, Mr. GRANT, and Mr. LEWIS of Florida.

H.R. 5039: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5097: Mr. ALEXANDER.
H.R. 5160: Mr. POSHARD.
H.R. 5237: Mr. CAMPBELL of Colorado.
H.R. 5244: Mr. JOHNSON of South Dakota, Mr. LIGHTFOOT, and Mr. HORTON.
H.R. 5247: Mr. BUSTAMANTE, Mr. DWYER of New Jersey, Mr. ECKART, Mr. STALLINGS, and Ms. PELOSI.
H.R. 5341: Mr. MCDERMOTT, Mr. KOSTMAYER, Mr. NAGLE, Mr. KASICH, Mr. PORTER, Mr. LOWERY of California, Mr. HOLLOWAY, Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. LANCASTER, Mr. WEISS, Mr. RANGEL, Mr. FAWELL, Mr. GILMAN, Mr. WALKER, Mr. MARKEY, Mr. GRANT, Mr. GOSS, Ms. MOLINARI, and Mr. ACKERMAN.
H.R. 5351: Mr. FLIPPO.
H.R. 5378: Mr. GILMAN.
H.J. Res. 214: Mr. LEWIS of California, Mr. VANDER JAGT, Mr. KLECZKA, Mr. WEISS, Mr. SPENCE, Mr. RICHARDSON, and Mr. COYNE.
H.J. Res. 248: Mr. COSTELLO, Ms. OAKAR, and Mr. SLATTERY.
H.J. Res. 374: Mr. CHANDLER.
H.J. Res. 476: Mr. DEWINE, Mrs. MARTIN of Illinois, and Mr. RICHARDSON.
H.J. Res. 482: Mr. FORD of Michigan.
H.J. Res. 486: Mr. PAXON.
H.J. Res. 492: Mr. HAMMERSCHMIDT, Mr. JOHNSON of South Dakota, Mr. CONTE, Mr. DE LA GARZA, Mr. SLATTERY, Mr. BENNETT, and Mr. PAXON.
H.J. Res. 509: Mr. SKAGGS, Mr. BEVILL, Mr. FOGLIETTA, Mr. FUSTER, Mr. SMITH of Florida, Mr. CONYERS.
H.J. Res. 519: Mr. DINGELL and Mr. GEREN.
H.J. Res. 543: Mr. CALLAHAN and Mr. STARK.
H.J. Res. 552: Mr. MORRISON of Washington, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SAXTON, Mr. GALLO, Mr. REGULA, Mr. ROWLAND of Georgia, Mr. RITTER, and Mr. DAVIS.
H.J. Res. 557: Mr. MAVROULES, Mr. MURPHY, Mr. ROBINSON, Mr. ROYBAL, Mr. GALLO, Mr. HAMMERSCHMIDT, Mr. LIVINGSTON, Mr. WILSON, Mrs. BYRON, Mr. NEAL of Massachusetts, Mr. HALL of Ohio, Mr. SHARP, Mr. RINALDO, Mr. HALL of Texas, Mr. GILMAN, Mr. COUGHLIN, Mr. BOSCO, Mrs. KENNELLY, Mr. GREEN of New York, Mr. ESPY, Mr. OWENS of New York, Mr. LEHMAN of California, Mr. STANGELAND, Mr. FASCELL, Mr. BURTON of Indiana, Mr. LEVINE of California, Mr. MARKEY, Mr. BALLENGER, Mr. VENTO, Mr. JACOBS, Mr. BONIOR, Mrs. BOXER, Mr. BROWDER, Mr. DURBIN, Mr. ECKART, Mr. HOAGLAND, Mr. MRAZEK, Mr. NAGLE, Mr. PICKLE, Mr. RIDGE, Mr. SAWYER, Mr. TORRICELLI, Mr. WHITTEN, Mr. GEPHARDT, Mr. PICKETT, Mr. LENT, Mr. RANGEL, and Mr. BENNETT.
H.J. Res. 610: Mr. ARCHER, Mr. BEVILL, Mr. BUSTAMANTE, Mr. CARDIN, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. DARDEN, Mr. EVANS, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FRANK, Mr. GREEN of New York, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HERTEL, Mr. HUGHES, Mr. KLECZKA, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LEHMAN of Florida, Mrs. LLOYD, Mr. MCDERMOTT, Mr. MCNULTY, Mr. MRAZEK, Mr. NELSON of Florida, Mr. PANETTA, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. RICHARDSON, Mr. SERRANO, Mr. SOLOMON, Mr. SYNAR, Mr. TORRICELLI, Mr. VALENTINE, Mr. WALSH, Mr. WEISS, Mr. WHEAT, and Mr. YATES.
H.J. Res. 616: Mrs. ROUKEMA, Mr. ACKERMAN, Mr. DONALD E. LUKENS, Mr. JOHNSON of South Dakota, and Mr. TOWNS.
H.J. Res. 627: Mr. GUNDERSON, Mr. TOWNS, Mr. SMITH of Florida, Mr. HALL of Ohio, Mr. PICKETT, Mr. FALEOMAVAEGA, Mr. GALLEGLY, Mr. INHOFE, Mr. LIPINSKI, Mr. ROBINSON, Mr. PETRI, Mr. SPENCE, Mr. CLINGER, Mr. DICKS, Mr. DONNELLY, Mr. ESPY, Mr. DWYER of New Jersey, Mr. CHAPMAN, Mr. DORGAN of North Dakota, Mr. RANGEL, Mr. HASTERT, Mr. HUTTO, Mr. NATCHER, Mr. DEWINE, Mr. MURTHA, Mr. GEKAS, Mr. FROST, Mr. ACKERMAN, Mr. YATRON, Mr. VENTO, Mr. HAYES of Louisiana, Mr. COBLE, Mr. HAMILTON, and Mr. HILER.
H. Con. Res. 183: Mr. CHAPMAN.
H. Res. 312: Mr. FAZIO.
H. Res. 414: Mr. THOMAS of Georgia, Mr. MRAZEK, Mr. GLICKMAN, and Mr. ROE.
H. Res. 418: Mr. LEWIS of Georgia, Mr. MORRISON of Connecticut, Mr. CARDIN, Mr. VISCLOSKY, and Ms. KAPTUR.
H. Res. 446: Mr. WOLPE, Mr. GILMAN, Mr. WEISS, Mr. SOLARZ, and Mrs. PATTERSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4492: Mr. JACOBS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

221. The SPEAKER presented a petition of the Attorney General, Boise, ID, relative to his support for H.R. 5194; which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5400

By Mr. MICHEL:

—Strike out all after the enacting clause and insert the following:

SECTION 1. REDUCTION IN THE LIMITATION APPLICABLE TO NONPARTY MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS TO CANDIDATES.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) Notwithstanding subsection (a)(2)(A), no nonparty multicandidate political committee may make contributions referred to in that subparagraph which, in the aggregate, exceed $1,000.".

"(b) TECHNICAL AMENDMENT.—Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by inserting after "(A)" the following: "except as provided in subsection (i),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office taking place after November 6, 1990.

SEC. 2. PROHIBITION OF SEPARATE SEGREGATED FUND BUNDLING OF CONTRIBUTIONS TO CANDIDATES.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) No separate segregated fund (as described in subsection (b)(2)(c)) may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office.".

SEC. 3. PROHIBITION OF TRANSFERS AMONG NONCANDIDATE, NONPARTY POLITICAL COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 1, is further amended by adding at the end the following new subsection:

"(j) A noncandidate, nonparty political committee may not make contributions, or otherwise transfer funds, to any other noncandidate, nonparty political committee. As used in this subsection, the term 'noncandidate, nonparty political committee' means a political committee that is not an authorized committee of a candidate for Federal office and is not a political committee of a political party.".

SEC. 4. PROHIBITION OF LEADERSHIP COMMITTEES; RESTRICTION ON CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES.

"(a) LEADERSHIP COMMITTEE PROHIBITION.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) A candidate for Federal office may not establish, maintain, finance, or control a political committee, other than the principal campaign committee of the candidate.".

(b) PRINCIPAL CAMPAIGN COMMITTEE RESTRICTION.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 1 and 3, is further amended by adding at the end the following new subsection:

"(k) A principal campaign committee of a candidate for Federal office may not make any contribution to any other principal campaign committee (other than the principal campaign committee of the same individual as a candidate for another Federal office).".

SEC. 5. HOUSE OF REPRESENTATIVES ELECTION LIMITATION ON CONTRIBUTIONS FROM PERSONS OTHER THAN LOCAL INDIVIDUAL RESIDENTS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 1, 3, and 4 is further amended by adding at the end the following new subsection:

"(l)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to a reporting period for an election, accept contributions from persons other than local individual residents totaling in excess of the total of contributions accepted from local individual residents.

"(2) As used in this subsection, the term 'local individual resident' means an individual who resides in a county, any part of which is in the congressional district involved.".

(b) EFFECTIVE PROVISION.—During any period with respect to which subsection (1) of section 315 of the Federal Election Campaign Act of 1971, as added by subsection (a) is not in effect, such subsection (1) shall be effective as so added, together with the following new paragraph:

"(3) For purposes of this subsection, an individual may not be considered a resident of more than one congressional district.".

SEC. 6. ADDITIONAL PROHIBITIONS ON ELECTION-RELATED ACTIVITY BY CORPORATIONS AND LABOR ORGANIZATIONS; DISCLOSURE OF PERMITTED ELECTION-RELATED ACTIVITY.

(a) PROHIBITED ACTIVITIES.—Paragraph (2) of section 316(b) of the Federal Election

Campaign Act of 1971 (2 U.S.C. 441(b)(2)) is amended—

(1) in subparagraph (A), by striking out "subject;" and inserting in lieu thereof "subject (other than communication for the purpose of influencing any election for Federal office); and";

(2) by striking out "(B)" and all that follows through "families; and"; and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) DISCLOSURE REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end of the following new subsection:

"(d) Any corporation or labor organization that makes a payment for a communication or other activity that—

"(1) relates to any election for Federal office; and

"(2) by reason of subparagraph (A) or (B) of paragraph (2) of section 316(b), is not a contribution or expenditure;

shall report such payment to the Commission in the same manner as a contribution or expenditure, as the case may be, is reported by a principal campaign committee of a candidate for the House of Representatives or the Senate under this section.".

SEC. 7. BAN ON SOFT MONEY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS AND REPORTING REQUIREMENT FOR AMOUNTS PAID FOR MIXED POLITICAL ACTIVITIES

"SEC. 324. (a) Any payment by the national committee of a political party or a State committee of a political party for a mixed political activity—

"(1) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(2) may be paid only from an account that is subject to the requirements of this Act.

"(b) As used in this section, the term 'mixed political activity' means, with respect to a payment by the national committee of a political party or a State committee of a political party, an activity, such as a voter registration program, a get-out-the-vote drive, or general political advertising, that is both (1) for the purpose of influencing an election for Federal office, and (2) for any purpose unrelated to influencing an election for Federal office.".

EXTENSIONS OF REMARKS

TRIBUTE TO DYNCORP AND ROB BRYANT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to DynCorp, a company located in my district, and one of its outstanding employees, Mr. Rob Bryant. I am sure that all my colleagues will find Mr. Bryant's accomplishments to be as inspiring as I have.

Rob Bryant has been a paraplegic since 1982 when he fell 55 feet from an oil rig. Despite this handicap, Rob has just completed a courageous, 3,500 mile "Row Across America". Beginning April 2, in Los Angeles, Rob began his 4-month tour of America with stops in 10 DynCorp locations, including Williams Air Force Base in Arizona, White Sands Test Range and Holloman Air Force Base in New Mexico, Columbus Air Force Base in Mississippi, DynCorp in Virginia, and the Naval Air Test Center, Patuxent River, MD. At each DynCorp location, Rob was greeted by supportive coworkers who hosted community receptions and fundraisers in his honor.

By rowing his specially designed three-wheeled rowing machine across country, Rob has raised money for the Kent Waldrep National Paralysis Foundation to further paralysis research. During the course of Rob's trip he spoke to over 100 groups to heighten the Nation's awareness of the need for more funding for research as well as explaining the needs and abilities of the disabled. He is also hoping to get his name into Guiness Book of World Records as the first person to ever rowcycle cross-country.

Rob has been supported and encouraged along the way by a loving family. His wife, Wanice first gave him the idea to buy the rowing machine, and was completely supportive of his goal to row cross-country. His two sons, Jason and Jonathan, ages 9 and 7, helped him train for a year and a half in preparation for his trip. While the help and support of his family was paramount to Rob's success, he could not have accomplished this incredible feat without the generosity of his employer, DynCorp.

When Rob approached DynCorp management to request time off for training, and to make his cross-country trip, his idea was immediately welcomed with the complete support of company officials and employees. Although, Rob is a valuable employee, DynCorp granted him leave from his job as a writer of technical manuals for the military. DynCorp gave him 2 days a week off to train, and once he was ready to begin his cross-country journey DynCorp gave Rob 6 months off with pay and full benefits.

Mr. Speaker, it is both an honor and a pleasure to salute Rob Bryant today. His courage in meeting life's challenges is an inspiration to all of us. I also want to applaud DynCorp, its officials and employees, for their willingness to become personally involved in this important cause. DynCorp stands as a shining example to other businesses for its support of Rob Bryant, and their ability to look beyond an individuals handicap.

ANNIVERSARY OF THE BEGINNING OF THE KOREAN WAR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CRANE. Mr. Speaker, last June 25 marked the 40th anniversary of the beginning of the Korean war. Before that brutal war ended 3 years later, on July 27, 1953, 54,246 American troops were dead, and 103,284 were wounded. During the war, 8,177 Americans were listed as missing or prisoners of war. We still have not accounted for 329 prisoners of war.

All in all, over 5,700,000 American service men and women were involved in the war, either directly or indirectly. Many of them had just survived the rigors of World War II, and still others went on to serve in Vietnam.

However, most of the veterans of the "forgotten war" simply returned home to resume their lives, and were never really recognized for their contribution to the freedom we now enjoy.

Now the time has come to acknowledge the service and the sacrifice of these veterans. Congress has appropriated $1 million in seed money for the construction of a Korean War Memorial here in Washington. The other $10 million needed to construct and maintain the memorial must, however, come from private contributions. Many organizations throughout the Nation are working at raising funds for the memorial.

One such group, the National Capital Friends of the Korean War Veterans Memorial, was organized for the sole purpose of raising funds. Not too long ago, that group was addressed by retired Army general, Richard Stilwell, who is the chairman of the Memorial's Advisory Board.

I insert the text of General Stilwell's splendid address before the group in the RECORD at this point:

ADDRESS BY GEN. RICHARD G. STILWELL

Given the importance of this luncheon and the patriotism and support that is evidenced by your participation therein, I abruptly left Congressman Sonny Montgomery in Seoul at 5:00 p.m. on Monday, the 28th of May, to be here this morning. I had the honor of accompanying the Chairman of the Veterans Affairs Committee of the House of Representatives and his seven Congressional colleagues to the Military Armistice Commission building in the joint security area at Panmunjom, Korea, for the formal ceremony, which concluded with the turnover, to the custody of the United States of America, of the remains of five heretofore Missing in Action from the Korean War. One was Air Force, and four United States Army—two tentatively identified but all subject to ultimate corroboration by the forensic laboratory in Hawaii. The significance of this very emotional day was that not since early 1954 have any remains of our war dead—United Nations, across the board, or Americans exclusively—been returned to our custody.

I do not know whether this is a harbinger of things to come, whether there will be a much larger return of some portion of the 8,000 plus that we still carry as Missing in Action. It is hard to begin to predict the thought processes of an Asian Communist as extreme as Kim Il-Sung. One thing we do know is that this event and the resultant public consciousness of the very large number of soliders of all the twenty-one nationalities still carried as Missing in Action, will have some impact on the posture of the United States—as indeed, over the years, the much more vocal community, for humanitarian reasons, has had with respect to Viet Nam.

In any event, I went there because it seemed appropriate that, given my modest responsibilities for the Korean War Memorial, I should do so. I am no stranger to Korea. Like many in this room, I am a veteran of the Korean War. I saw it from three different vantage points, from the 25th of June 1950 to the 27th of July 1953. Interestingly enough, late on the 25th of June 1950 (the 26th, of course, in Korea) the head of the CIA, Admiral Hillenkoetter said, "Stilwell, what can you do to assist what is obviously gonna be a major effort?" I said, "at this point, sir, nothing."

Over the next two years in my capacity as head of the Far East operations division we tried with scant success to stimulate resistance activity behind North Korean and Chinese Communist lines. We started from scratch, we were amateurs, we nibbled a bit but, we had no appreciable impact on the war effort from the agents that we infiltrated by sea, by land and by air. It was a real challenge. Those activities gave me a fair picture of what was happening on the battlefield that I then joined, later on, as regimental commander of the 15th Infantry assigned to the 3rd Infantry Division—not the famous 3rd Marine Division that is so prominently represented here today by the officers of that Association.

And then, finally, I saw the War from a totally different perspective when General Max Taylor, to my chagrin, hauled me out of my command to make me the senior adviser for a Korean Army Corps. He said it was a mark of confidence in my potential and ability, but I tell you—as many in the room who have commanded troops, particularly in battle, will confirm—moving away from one's unit, whether a platoon or division or anything intermediate, is tough and

particularly (Brigadier General Ayken, please note) because my 4th Battalion was the Greek expeditionary force second only to the Turkish Brigade in terms of motivation and battle prowess.

Nonetheless, the last several months of the War were interesting for I had de facto command of four Korean divisions. The Corps Commander whom I was there to "advise" wanted to think about much bigger things. So he said "run the Corps."

When the guns fell silent on the 27th of July 1953, the Armstice was envisaged to be temporary and supplanted by some sort of a political settlement that would regulate relations between two states of a still divided peninsula. That has never eventuated.

So, today, we have to remind ourselves that the only thing that determines what is North and what is South is that four kilometer wide, now heavily fortified zone, the modalities of which are governed by a Military Armistice Agreement—Kim II-Sung as one signee, the Chinese Commander another and Mark Clark, Commander-in-Chief, United Nations Command, the third. We hope eventually for much better relationships, but we haven't got them yet.

The vivid memories of the War engulfed me on this most recent trip just one day ago. As most accounts stress, the War has been much ignored by history for the reason that it was sandwiched in between the universally supported effort of World War II, which took this nation to its apogee, and our very controversial involvement in Viet Nam beginning in the early 60's. Yes, as the President of the United States said on the first of May at our dinner, the War was a milestone in U.S. post-World War II foreign and defense policy. Although the battle lines on the 27th of July 1953 were astride the 38th parallel where it all started, it was not a stalemate except in military terms. It had achieved the political objectives for which any war is fought and those objectives were to restore the territorial integrity of the Republic of Korea and to save 40 million human beings from being overrun by a totalitarian Communist regime. That was the foundation from which the Republic of Korea has levered itself from the ashes into a middle power, the twentieth most important country in the world galaxy today. That was the minimum geo-political achievement of that War. But, more importantly, the decisions that flowed from Truman's initial decision ("we're going to intervene, unprepared though we are,") established the strategic posture of the United States that has been maintained since the early 50's.

We changed our defense plans. We determined to maintain multiservice balanced capabilities of whatever power was required to contain Soviet aggression at any level. We put muscle into NATO, enough muscle to make it the principal instrument for containing the Soviet empire on the European continent. We forged collective security arrangements in Asia, notably including those with Australia, New Zealand and the Philippines; Korea and Japan, which have maintained the climate of confidence behind which we have seen the remarkable economic dynamism which is going to make the year 2001 the beginning of the Century of the Pacific. As President Bush said, the people who fought in Korea can take some credit for the foundation for the march of democracy that is occurring worldwide today.

So, there is abundant reason why there should be a memorial to those brave American men and women who rallied to the colors; who crossed the wide ocean to defend a people that they never met, in a land that they knew not; who endured the harhest of terrain and weather, sometimes with numerical odds against them, but stayed the course and did all that along with the men and women of the Republic of Korea's armed forces and the men and women of fifteen other nations that provided combat contingents varying from brigade size and division size in the case of the Turks and the British, down to batallion or smaller size.

Congress mandated the Memorial nearly four years ago. What is unique about that Congressional legislation, ladies and gentlemen, is that it is a first. It not only directs a Federal agency, the American Battle Monuments Commission, to establish such a memorial but provides that that memorial be under government auspices throughout. It will be constructed by the Army Corps of Engineers. The money will be accounted for by the General Accounting Office, among others; the money will be on deposit in the United States Treasury.

So it is official in every respect except that the funds will come from private sources, less the seed money of $1 million which the Congress has provided. We are totally different from the Congressional authorization for the Viet Nam Memorial, for the Women in the Military Service, for the Black Revolutionaries, for the Law Enforcement Officers, because all of their procedures for design, fund-raising, accounting, and so forth, are in non-governmental hands. Not so in our case.

To assist the American Battle Monuments Commission, Congress directed that there be a Board of twelve veterans of the Korean War, appointed by the President. It has been at work for three years. One of our major jobs has been to recommend a site. We have a magnificent site. Visualize yourself sitting on the Great Emancipator's lap and looking down the Reflecting Pool toward the Washington Monument * * * look 15 degrees to your left, and you see the Viet Nam Memorial. Now turn your gaze the same angle to the right front and you will see the grove (Ash Woods) where we are going to build our Memorial. When finished, it will complete a cruciform—long axis, Lincoln and Washington—short axis, Viet Nam and Korea.

Within a 2.2 acre actual site, excluding the approaches, walkways, trees, will be the Memorial whose design we selected in concept and unveiled in the Rose Garden on the 14th of June with the participation of the President of the United States. It will cover a football field—think of that—120 years in one direction and 40 in the other. It's dominant feature will be a column of 38 heroic size statues (that's about 8 feet high) symbolic of the men—I repeat, men—who fought the War on foot. That column will extend approximately 200 feet up a very gentle slope down which will be flowing a stream of water, two to three inches deep, which will symbolize, for those in the audience who remember it well, something of the terrain in which the War was fought—rice paddies, snow, mud, streams. In between these figures will be an 8 foot wide smooth path up which the visitor will move and note, as he studies these statues, and exact record of the equipment, the weapons, the gear of the Korean War period.

The visitor will also observe the ethnic diversity of our nation in the faces of the individual statues: blacks, hispanics, American indians and orientals. And three of the 26 Army troops will have Korean faces representative of the Korean augmentation of our ranks throughout the conflict. One of those 38 will be of somewhat smaller stature. Older, not in uniform, he will have a quilted jacket; he will have very gnarled thighs and calves; and on his back will be an A-frame made of wood and straw and loaded with either $1 millimeter mortar shells or 5-gallon drums. We were determined that since the Korean Service Corps was so important to all nationalities represented out on the battlefields, it be represented in the Memorial. The service mix will be 26 Army (including those three KATUSAS), 6 Marines—a truncated squad, plus one Navy corpsman, 2 Air Force personnel (a forward air control team) and an air naval gunfire liaison control officer and his radio operator. So the Navy outguns the Air Force in that column three to two, somewhat to the chagrin of my Air Force colleagues.

The medium of the statues is yet to be determined. Colonel Badger, my colleague on the American Battle Monuments Commission, may have something further to say on that. We are leaving it to the architect to recommend whether it will be granite or of some metal. We old soldiers believe that the statues need to be cast to get the level of detail we would like to see in the uniforms and the equipage.

In the march up this column from rear to front you won't be in the water because the walkway will be above the water line. At the summit one is 8 feet above ground level. You will then descend a ramp that leads to an American flag toward which the column of troops is, in effect, moving. At the base of the flag will be the dedicatory plaque of the Memorial.

Then you turn around and face a wall 8 feet high, and divided into two unequal parts by the ramp; the left segment is 80 feet long—and the right, 40 feet. On the larger side, will be a continuous mural—some type of art form to be determined—which we want to express a coherent story of the War. We visualize the Pusan perimeter, Inchon, the Chinese intervention, and so forth. Limited only by the imagination of the muralist, we want to blueprint on that 80 by 8 foot mural all of the services, all of the fabric of support (and I use support in the combat as well as the service sense) that, combined together to sustain those on the battlefield. That's where we hope to give proper due to the United States Air Force, the Marine aviation, the United States Navy, the medical services of the Army, Navy and Air Force and all the others. If I sound enthusiastic, I am! To the right of the ramp is the 40 foot area we call the "Open Chapel." There with words simple, but eloquent, we want to carry out the mandate of Congress which stipulates that the Memorial is honoring everybody, but it will particularly express gratitude for those who were killed in action, those who are still unaccounted for, or those who were held as Prisoners of War. The Open Chapel is dedicated to precisely that.

We do not anticipate that there will be names on the wall. I might add, because we discussed this earlier, that this is without prejudice to some sort of an interactive video portrayal later on. It could well be an automated display system where the names will be recorded on film and can be called up by those who wish to do so, as an adjunct to the Memorial.

Time does not permit discussion of the landscaping concept which makes the Me-

morial a coherent whole. But, I must cover another important feature. This Memorial, although mandated by the Congress to honor Americans, must place the War in its larger context and recognize that we went to help the Korean armed forces who provided most of the manpower and who took the greatest losses. It must also recognize that the War was a multinational effort in which 21 other nations, United States included, participated under the United Nations banner. Sixteen provided combat contingents, and five provided medical support. We've left it to the architect to tell us what he thinks is the best way to reflect, in a notable manner, the contributions of those other nations. We will see what emerges. We have discussed a boulder or stone, provided by each of those nations on which could be inscribed the name of the country, the number of units, the casualties, or something of that nature.

The question is always asked, "when are we going to see this?" The simple answer is that "I don't know." We have some conflicting timelines. The generic legislation provides the music to which we dance. We are the first memorial to be under the generic law which provides that one must have all the money required for construction before one can get a construction permit, and one must have the construction within five years of the initial authorization. The inital authorization was in October 1986. So, by October 1991 we must have 100% of the construction costs plus another 10% for perpetual maintenance available to the National Park Service. But, it's going to be almost October 1991 before we really know how much the Memorial is going to cost; we are just starting the A & E phase and the deliverable is more than a year away.

Our best estimate, right now, of what it is going to take for construction, is $10 million; and that may be a little low. Add another million for maintenance. That's our current target. The glass is a little more than half full with our assets of about $6 million. We are not going to get any help from the United States Government; given the deficit, we would be low on that totem pole anyway. And, it's hard for the government to appropriate against an indeterminate requirement. So it's up to us.

The $6 million has been raised over a period of three plus years. It represents a combination of the inputs of the veteran's organizations; some very good help from Korean commercial organizations who have subsidiaries in the United States; and from the grass roots of the United States, about 100,000 individual contributors total. We have had some very good help from some well placed volunteers like Dear Abby, whose columns have garnered $750,000; a Dr. Chung, who wrote a book and gave us all of his proceeds, totaling $200,000. The American corporate world has not been very helpful despite our best efforts. We're pursuing all avenues.

Our current most hopeful, most promising initiative is to get Congressional legislation for a commemorative coin to be issued next year for the 38th anniversary of the Armistice. That will give us a couple of million dollars up front. We need all the help we can get. We want maximum participation at any level * * * $1.00 or more * * * because the breadth of American participation is more important than the individual big contributors. So, we are appealing to everyone. We will place a notice in every newspaper in the United States in the next couple of months. The message is straightforward. It says: "there are 5 million of us who were in uniform during the Korean War and we need 5 million bucks. That translates to a buck a man—So, how about it? Just put a dollar in an envelope." They may violate postal regulations but, for a buck, who's going to care?

That's the story. I hope I have conveyed something of what the Korean War Veterans Memorial is all about, how important the War was in United States twentieth century history and how appropriate this tribute is to the men and women whose sacrifices made possible all of the subsequent geostrategic gains. I certainly thank you for your attention.

(Brigadier General Mete Ayken is the Defense and Air Attache at the Embassy of the Republic of Turkey in Washington, DC.)

A TRIBUTE TO EDWARD AND CLARA PENNY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of honoring Mr. and Mrs. Edward Penny of Coleman, MI, on the occasion of their induction into the Michigan Farmers' Hall of Fame. Founded in 1982, the Michigan Farmer's Hall of Fame exists to honor farmers for their contributions to their community and to Michigan's agriculture industry. The Pennys are one of seven families who will be introduced into the Michigan Farmer's Hall of Fame on August 31, 1990.

Edward was born on a small farm near Midland, MI. While in school he was an active member of the Future Farmers of America [FFA]. He also attended various leadership camps and the national FFA convention in 1941. He received the State farmer degree in 1942.

Ed formed a partnership with his father in 1944. They increased his father's herd of milking cows from 10 to 20, and farmed 100 acres, an additional 40 acres to his father's original 60.

Ed and Clara were married in 1946. Together they have raised two sons and four daughters. Throughout their marriage Ed and Clara have remained interested and involved in their community. Ed has been active in local politics and the Methodist Church. He has also served as the township treasurer and as the township supervisor. Clara has participated in teaching Sunday school and has been involved with women's society, church suppers, and PTA. She has also held the office of deputy treasurer of Lincoln Township.

In 1946 Ed and Clara purchased their farm and rented many acres on which they raised hay, corn, oats, and potatoes. In 1972, Ed and Clara decided to sell the farm because of urban growth. They relocated to a farm in Isabella County and expanded their farming operation to 120 acres. Last year, Ed sold his milk cows. Now that he is semiretired, he plans to raise dairy heifers, soybeans, wheat, and cash crops.

Mr. Speaker, and my colleagues in the House, please join me today in honoring Ed and Clara Penny, and in celebrating their life of contribution to their community and to Michigan agriculture. The Pennys are an example for all of Michigan to admire and emulate, of hard working, family people, who share a love of the land and have devoted their lives to agriculture.

TRIBUTE TO MARIAN VAN SLYKE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding member of my district who has been chosen as music director for the Newport Navy Choristers.

Ms. Marian Van Slyke, of Newport, RI, has provided enthusiastic guidance and vigorous direction to the Navy Choristers for the past 30 years. Her leadership has served to anchor the group. Marian is known as the heart of the group. It was under her direction that the group began singing under the sponsorship of local and national charity organizations, which benefited from the profits of ticket sales and program patrons.

Marian's accomplishments outside the music world are impressive. She has a degree in music from the Eastman School of Music of the University of Rochester. She has served as a director of the Salve Regina Glee Club and as a faculty member at Vernon Court Junior College. For 16 years she was an organist and music director at Newport's Trinity Church.

Marian has received several awards and citations from various civic and military groups, including a meritorious public service citation from the Chief of Naval Operations. She has been listed in the 1975 and 1986 editions of "International Who's Who in Community Service."

I take this time to commend Marian for her accomplishments and wish her continued success.

A SPECIAL HONOR AND TRIBUTE TO HYMAN AND SYLVIA HURWITZ

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to honor and pay very special tribute to Hyman and Sylvia Hurwitz, two very special and dedicated residents of Butler, PA, on the happy occasion of their 50th anniversary.

Although Hy and Sylvia's most proud contributions have been their three children—Larry, David, and Roberta—and their seven grandchildren, Hy and Sylvia have also made many major significant contributions to the Butler County community and surrounding areas.

Hy began his professional life as a high school science teacher, but World War II interrupted his career. Landing at Anzio beachhead, Hy suffered a severe foot injury and re-

turned to Deshon Army Hospital—now the Butler VA Medical Center—for immediate medical attention.

For a year, Hy's left foot remained infected and swollen, but exploratory surgery later revealed a complication of the battlefield surgery done on Hy's foot. With his eventual recovery, Hy returned to teaching and to public service.

President of B'Nal Abraham Congregation, Hy was an early organizer of the Butler County Music and Arts Festival, vice chairman of the group organizing construction of a new high school, chairman of the United Fund, advisor to Butler County Community College, commissioner of the Boy Scouts of America, president of the Rotary Club, president of Butler "Spark Plugs," recipient of "Man of the Year Award," and president of AAA.

As Hy became reestablished in the life of the community, he encountered his life's second major challenge in 1971 when he successfully underwent an operation for a cerebral aneurysm that left Hy paralyzed on his right side, removing his speaking capability.

Advised to institutionalize her husband, Sylva declined and returned Hy to the Butler VA and enrolled him in corrective therapy. Hy learned to walk and 3 years later was among the first to enter the then-new speech and language therapy services at Butler VA.

It wasn't easy to walk and talk again, but Hy did both, and his actions speak louder than words in praise of the rehabilitation services of the Butler VA hospital, as well as the strength of his spouse, Sylvia.

Always ready, Hy returned to public life and public service. In 1978, Hy won second prize for an oil painting in the Butler County Music and Arts Festival, the organization he helped start years earlier, and Hy also began serving as a volunteer speech aide in the audiology and speech pathology service of Butler VA, where he works with stroke patients who now possess Hy's example to inspire them to overcome the seemingly impossible.

In fact, Hy passed up a trip to Austria to continue his therapy work at Butler VA.

Mr. Speaker, Hy's wife Sylvia is also a bright shining light in the community. Working for many years with the Butler YMCA and helping to establish a youth program there, Sylvia also organized a youth program at her local synagogue some 40 years ago.

Sylvia was first chairman for the then Golden Age Club—which her Council of Jewish Women organized—bringing in the YWCA and the local board of recreation.

Mrs. Hurwitz served on the board of AFS, Catholic Charities, the Cancer Board, the Symphony, the Easter Seals and the Butler County Memorial Hospital Auxiliary.

Sylvia, who is currently employed at WISR Radio in Butler, also serves as a volunteer for the Veterans Hospital, delivers for Meals on Wheels, serves on the synagogue board and is currently president of Sisterhood and Hadassah.

Mr. Speaker, Members of the U.S. House of Representatives. It is quite clear why this is a very special 50th wedding anniversary for a very special couple: Hyman and Sylvia Hurwitz. I congratulate and honor their significant and responsible contributions to the public well-being, and pay special tribute to them today before the Congress on this very happy occasion.

A BILL RELATING MOST-FAVORED-NATION STATUS FOR THE SOVIET UNION TO NEGOTIATIONS FOR BALTIC INDEPENDENCE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CARDIN. Mr. Speaker, today I have introduced a bill intended to lend support to the brave peoples of Estonia, Latvia, and Lithuania in their gallant struggle to force the Soviet Union to recognize their national sovereignty.

Over the past few months, the States of the Baltic region have made much progress in this regard—based primarily on their peoples' courage and determination in peacefully standing up for their freedom. This in the face of blatant political, economic, and military intimidation on the part of the central government in Moscow.

Beginning with Lithuania's dramatic March 11 declaration of its independence from the Soviet Union, the situation in the Baltics has evolved rapidly. The democratically elected governments of each republic have now issued declarations asserting their national independence.

Over the last 50 years, the U.S. Government has voiced many noble words of support for the aspirations of the Baltic people. I believe that we must back up these noble words with equally noble deeds. We need to actively encourage the Soviet Union to acknowledge and accept the legitimate rights of the Baltic peoples. Rights guaranteed under the Helsinki accords—to which the Soviet Union is a signatory. Rights guaranteed under the Soviet constitution itself.

All three of the Baltic States freely exercised their internationally recognized independence from 1918 until their seizure by the Soviet Union in 1940. Their democratic governments engaged in commerce, and entered into treaties—including treaties signed with the Soviet Union in 1920. The Government of the United States also entered into treaties with the independent Baltic Republics during this period—treaties which are still in force.

However in 1940, the Soviet Union seized the three Baltic States based on an infamous secret agreement between Stalin and Hitler. As their incorporation was an illegal act under international law, the United States and other Western nations have consistently refused to recognize Estonia, Latvia, and Lithuania as parts of the Soviet Union.

Current Soviet leaders have acknowledged the illegality of the secret protocols to the 1939 Molotov-Ribbentrop pact with Nazi Germany, which led to the Soviet military invasion of the Baltics. Late last year, the Soviet Congress passed, and President Gorbachev signed, a resolution on these secret protocols. They said, in part:

> The Congress of the people's deputies of the Soviet Union condemns the signing of the "Secret Additional Protocol" of August 23, 1939, and the other secret agreements with Germany. The Congress recognizes the secret protocols as illegal and invalid from the moment of their signing. The protocols did not create a new legal base for the Soviet Union's relations with third countries.

At the recent superpower summit in Washington, President Bush signed an agreement regarding most-favored-nation status for the Soviet Union. I understand that the President told Mr. Gorbachev at that time that he would not submit that agreement to the Senate until the economic coercion in Lithuania ends.

The bill I have introduced today would reinforce this message. It would ensure that most-favored-nation treatment is not approved for the Soviet Union until economic and military coercion against the Baltic States is brought to an end, and Moscow enters into meaningful independence negotiations with each of those states. Withholding these benefits should prove an important lever for encouraging the Soviet Union to live by the rule of law on this matter.

If our claim of support for freedom and democracy around the world is to have any credibility, at this critical moment in history, our Government must stand firmly with the Baltic people in support of their quest for independence.

When the effort of the Baltic Republics to reassert their independence began in earnest just a few months ago, many counseled that the time was not right; that it could undermine the efforts of Mr. Gorbachev to achieve perestroika in the Soviet Union. Many of these people did not appreciate that the moral strength and determination of the Baltic peoples could force so much progress in so little time. Yes, to some extent Mr. Gorbachev's push for greater truth and openness in Soviet national and international affairs helped to make this possible, but only because the Baltics so clearly have the right on their side.

As we celebrate the general improvement in relations between the Soviet Union and the United States, let us not abandon the legitimate aspirations of the Lithuanian people. Let us reaffirm our longstanding policy of nonrecognition and condemn the ongoing illegal occupation of the Baltic States. Let us communicate our continued recognition of their oppression, and our ongoing commitment to their cause.

We must do all we can to compel the Soviet Union to allow the people of Estonia, Latvia, and Lithuania to freely determine their own destinies without fear of economic or military reprisal. We must do all we can to encourage a peaceful, negotiated solution to this conflict. We must do all we can to assure independence for the brave people of the Baltic States.

I would suggest to my colleagues that this legislation is the least we can do in support of these goals. It sends a clear mesage that, while we want increased trade and peaceful cooperation with the Soviet Union, we have not forgotten the people of the Baltic Republics or their quest for freedom and independence. That while we want to see Mr. Gorbachev succeed in bringing openness and restructuring to the Soviet Union, it cannot be at the expense of the Baltic peoples. I urge my colleagues to support this proposal.

FUSION RESEARCH: NEW OPPORTUNITIES FROM LAB CONVERSION BILL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STARK. Mr. Speaker, the National Research Facilities Act of 1990, H.R. 5253, provides the means for an effective and efficient transition from defense research to civilian research at Lawrence Livermore National Laboratory [LLNL].

The changes in Eastern Europe which led to a decreased Soviet military threat allow us to move away from defense related research. In order to capitalize on the economic and social benefits of civilian research, as our European and Japanese allies have done, the same weapons-oriented facilities should be converted to civilian research.

One program that deserves more attention is the fusion energy program.

The fusion energy program is split into two parts: inertial confinement fusion [ICF] and magnetic fusion energy [MFE]. Up until now, ICF program was a defense program that concentrated on nuclear weapons research. ICF could also lead to fusion energy reactors which would produce environmentally safe energy for millions of Americans from the elements in water. As for the more civilian oriented MFE program, for the past 10 years it has been losing funding for research, which delays the time a magnetic fusion energy reactor could steer us away from dependence on fossil fuels.

The National Research Facilities Act of 1990 would help the ICF and MFE fusion programs come closer to providing Americans with energy, long after fossil fuels run out.

We can not continue to use fossil fuels indefinitely because of their terrible cumulative environmental impact. According to Jay D. Hair of the National Wildlife Foundation:

Increased global warming caused by concentrations of greenhouse gases, including carbon dioxide (CO_2), is one of the most serious environmental problems caused by our fossil-fuel-dependent society. The linkage between CO_2 emissions and climatic disruptions is no longer a matter of dispute.

In a July 17 letter to Speaker THOMAS FOLEY a group of concerned scientists said:

Last May, an international scientific panel (Interparliamentary Conference on the Global Environment) endorsed by the United States concluded that continued emissions of CO_2 and other gases will result in an average temperature increase by as much as 10°F. within the next century. This disastrous temperature change would be greater than any change that has occurred in the past 10,000 years. The United States is the largest contributor of carbon dioxide emissions in the world, and bears a special responsibility to take the lead in reducing this pollutant that threatens the entire planet."

We can slow fossil fuel consumption today by passing the "carbon tax," and we can replace fossil fuels tomorrow by supporting fusion research. If fusion research continues to be supported, then we will have an environmentally safe, abundant energy alternative to fossil fuel in about 30 years.

The ICF program conversion would not abandon defense research; it would just change ICF's priorities. By supporting the power upgrade of the NOVA laser at Livermore Labs, the ICF program would achieve plasma ignition with some energy return by 2000. NOVA is the most powerful ICF laser. Plasma ignition is the next great step which would show that a fusion energy reactor is feasible. Once plasma ignition is achieved, then we could choose to pursue defense applications in the laboratory microfusion facility [LMF] and/or civilian applications in the engineering test facility/demonstration power plant [ETF/DPP]. To make civilian research a priority in the whole ICF program, not just at Livermore lab, a separate civilian inertial fusion energy [IFE] agency could be created within the Energy Department.

The magnetic fusion research investment also needs to be continued. Magnetic fusion produces fusion by heating hydrogen isotopes, which are found in water, to hundreds of millions of degrees. The plasma is confined by powerful magnets in a donut-shaped device. MFE research is mostly concentrated on the tokamak designs. This is different from ICF which fires lasers or other energy sources from every direction at a stationary hydrogen isotope. Energy is gained when hydrogen isotopes are fused together to produce helium and energy. LLNL does a great deal of magnetic fusion research. The microwave tokamak experiment [MTX] facility focuses its research around the Alcator-C tokamak. LLNL also works with the General Atomics laboratory on the Doublet-IID tokamak. The recent National Academy of Sciences report on magnetic fusion recommends an immediate 20 percent increase in MFE funding in order to complete the compact ignition tokamak [CIT] at the Princeton Plasma Physics Laboratory and the international thermo-nuclear experimental reactor [ITER]. LLNL fusion research develops technology for both reactors.

Fusion power is environmentally safe energy. According to Eric Storm, program leader and deputy associate director for ICF at LLNL:

The fusion process itself is clean, it leaves no radioactive "ashes" behind and is inherently safe. Fusion would be environmentally acceptable, since it does not create such harmful environmental side effects as the "Greenhouse" effect, acid rain, and other polluting by-products caused by burning fossil fuel. Fusion does rely upon a nuclear process, but because it is not self-sustaining, there is no possibility of a "runaway" or "meltdown" situation as in the Chernobyl [or Three Mile Island] incidents. Although some structural parts of the "fusion boiler" will become activated and the fuel may contain tritium (a short-lived radioactive element), fusion power plants can be designed to pose even less environmental hazard than conventional fossil fuel plants.

Mr. Speaker, supporting civilian fusion energy research today will make us the leader in energy production tomorrow. I hope that H.R. 5253 could be a step toward promoting greater civilian fusion work at the outstanding Lawrence Livermore National Laboratory.

NEA FUNDING

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GINGRICH. Mr. Speaker, Dave Hamrick, editor of the Southside Sun in East Point, GA, wrote this July 26, 1990, column on funding the National Endowment for the Arts. His views well express the point which those of us working for standards at this taxpayer-financed institution are trying to make. There is a huge difference between censoring the arts and deciding, based on reasonable standards, how tax dollars will be spent on behalf of the public for the arts. We oppose the former and insist on the latter.

I encourage all of my colleagues to read the case Mr. Hamrick makes in "Strings Attached to Art Funding."

[From the Southside Sun, July 26, 1990]

STRINGS ATTACHED TO ARTS FUNDING

(By Dave Hamrick)

Suppose someone came up to you and asked for a sizeable sum of money.

And suppose you responded by inquiring as to what this person planned to do with the money. Imagine that this person then said, "None of your business," and proceeded to call you and your ancestors various unflattering names.

Would you given him the money anyway?

Or would you politely apologize, reaffirm his right to not divulge his intentions and then affirm your own right to not give him any money?

I vote for the latter.

Yet this is the scenario that is played out yearly when the subject of money for the arts comes up in Fulton County and across the nation.

LOOKING FOR FUNDS

We have a group of people who have their hands out. They want money to pursue "the arts." But if anyone suggests that taxpayer money not be used for artistic works that the majority would consider lewd, crude or just plain lousy, that person is branded with a scarlet "C," for "censor."

The C-word springs to the lips of many in the arts community so fast it would give you whiplash.

Any suggestion that government control of the arts would be a good thing is met with horrified gasps . . . as it should be.

Yet those who espouse the higher cultural aspects of society seem to think there's nothing strange about asking for money from the government.

SOME SIMPLE FACTS

Here's a hot flash. Most people don't give away money without expressing at least a passing interest in how it's being used.

Here's another hot flash. "The government" doesn't have any money. When various endowments for, coalitions of and funds for the arts receive money from the government, that means they're getting it from you and me.

I don't know about you, but when I see that money being used to sponsor artistic works like the now infamous photograph of a crucifix in a jar of urine, I tend to get a little stingy with my part of the government's money.

That doesn't mean I'm setting myself up as a censor of art, any more than it means

I'm a censor of hot dogs when I decide not to buy the ones available at the Omni because they're too cold.

Those in the arts community who get upset because the majority of us take an interest in how our money is spent should seriously consider whether they really want government assistance for the arts or not. Government funding has always meant government control, whether you're talking about the arts, education or sewer systems.

AN ALTERNATIVE

If they really don't want Big Brother looking over their shoulders when they decide what to paint, sculpt or sing, then perhaps they should finance their work on the open market.

I know that's a difficult concept to get a grasp on, but it works like this. You write, sculpt or draw whatever suits your fancy, whether that's ridiculous or sublime, sacred or mundane, modest or lewd. Then you scrape up some money, rent some space somewhere, run some advertisements and invite the public to view and buy your work.

If enough people think your work is worthwhile, then voila . . . you're funded.

Yes, there are bound to be people who produce or perform astounding works of art but who can't get public acceptance for one reason or another. I'm sorry about that, but it doesn't give anyone the right to take people's money by force, under threat of incarceration, and give it to that artist.

There is one exception to my diatribe, and that's when a public purpose is directly served. Programs, for instance, that bring a variety of basic artistic expression into the schools for educational purposes are worthy of funding.

But those who put together such opportunities must accept the fact that the public is going to be interested and concerned about the quality of the material.

There's just no such thing as a free endowment.

AIRLINE PASSENGERS DEFENSE ACT OF 1990

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. TALLON. Mr. Speaker, I am pleased to support legislation introduced today by Congressman DON RITTER that is intended to protect airline passengers from undue delays and flight cancellations. The Airline Passengers Defense Act of 1990 guarantees the flying public certain rights to compensation for flights that are delayed or cancelled for reasons other than maintenance or safety and for baggage that is lost or delayed.

Of course, airlines want to provide satisfactory service to their customers; that is the basis of every profitable business. In today's airline market, however, each airline has its own standards of service to passengers, and sometimes it just isn't adequate. There is no consistency in the level of service among different carriers.

Currently, no uniform guarantee of compensation exists for lost or mishandled luggage and delayed or canceled flights. This legislation provides that uniformity. A passenger boarding any flight on any airline in the United States will be guaranteed certain rights under this legislation.

The bill mandates that airlines will be held accountable if they cancel flights for reasons other than maintenance and safety and must adequately compensate passengers for those flights. Also, airlines must compensate passengers for lost or delayed luggage and standardize baggage claim forms. As well, an Office of Airline Passenger Advocacy will be established to receive and handle complaints relating to airline services, provide consumers with airline information, and enforce regulations relating to air carrier passenger services.

This legislation gives the airlines the opportunity to provide uniform and consistent services to consumers and allows passengers the means to protect their rights.

THOMAS J. MORAN HONORED AFTER A DECADE AS PRESIDENT OF LUZERNE COUNTY COMMUNITY COLLEGE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Mr. Thomas J. Moran, a man who has been an active and vital member of the northeastern Pennsylvania community, working for the education and development of our young people. Thomas Moran, third president of Luzerne County Community College [LCCC] in Nanticoke, PA, is ending a decade of service to a fine institution of higher learning.

Mr. Moran is a graduate of Bucknell University where he received a bachelor of science degree in education and English. He received his master of science degree from Columbia University School of Journalism and completed graduate work in public relations in higher education from New York University.

He began his career as a journalist in 1951, with the Pittsburgh Post-Gazette serving in a full-time position at night. While with the Post-Gazette, Mr. Moran began his teaching career at Duquesne University where he taught journalism as a full-time faculty member. In 1953, Mr. Moran was hired as the sports editor and feature columnist for the Wilkes-Barre Sunday Independent.

In 1961, Mr. Tom Moran was named Telegraph News Editor for the Wilkes-Barre Times Leader, and in 1965, he went back to the Sunday Independent as the suburban editor. In 1967, he was named the managing editor of the Sunday Independent and also worked as the regional correspondent for the New York Times.

Prior to joining the administrative ranks at LCCC in 1977, as dean of external affairs, Mr. Moran served as the executive director of public relations and alumni at Wilkes College. During his tenure at Wilkes, he expanded a journalism-program from one course to an 18-hour concentration with a professional internship. In addition, Mr. Moran established a Wilkes College campus chapter of Sigma Delta Chi Professional Journalism Society.

Since his appointment as president of LCCC, the college has added three facilities to the 122-acre campus which have been a tremendous contribution to the citizens of northeastern Pennsylvania: the completion of the Conference Center; a faculty office building, which allowed the much-needed space for additional classrooms in other buildings by centralizing the faculty offices; and an $8 million Advanced Technology Center.

The technology center was built last year in response to the growing need for a training facility for students interested in pursuing college degrees in the rapidly growing high-technology fields, as well as for local business and industry employers who require specific training and/or retraining programs for employees.

Throughout the years, Moran has always remained in close contact with the academic community. He has served as an adjunct faculty member at King's College, and continues to remain close to the classroom at LCCC, where he teaches an English composition course.

Mr. Moran has been recognized in the community for his expertise in the field of journalism by being named the recipient of the Lifetime Achievement Award for Contributions of Service to Journalism from the Pennsylvania News Media Association in 1986.

This past spring, the Capital Cities Foundation, Inc., and the Times Leader initiated the Thomas J. Moran Journalism Scholarship which will provide tuition for a graduating LCCC student who will be pursuing a journalism degree at Wilkes College.

Thomas Moran is being honored by his colleagues, family, and friends at a testimonial dinner to be held on Friday, August 10, 1990. I know my colleagues in the House of Representatives will join me in recognizing Mr. Moran's life work and praising him for his dedication and commitment to the education of our youth. He will be greatly missed by the LCCC family, and it is my hope that he will continue to share his journalistic talent with the northeastern Pennsylvania community.

H.R. 3950

HON. PETER H. KOSTMAYER

OF PENNSYLVIANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOSTMAYER. Mr. Speaker, the House of Representatives approved late last night, H.R. 3950, the Food and Agricultural Resources Act, with my amendment to establish a new program for the protection of prime farmlands.

Farmland provides the Nation with a variety of important benefits, ranging from national food security and local supply of high-value agricultural products, to wildlife habitat and aesthetic open space. Despite these valuable contributions, it has been estimated that nearly 1 million acres of prime farmland are converted to nonagricultural uses annually.

Nationwide, urban sprawl has resulted in the conversion of some of the Nation's most diverse and productive agricultural lands. For instance, the majority of the high-value agricultural products of this Nation—primarily fruits, vegetables, and dairy products—are produced in areas experiencing strong devel-

opment pressure. Many farsighted States have established voluntary programs to offer farmers viable alternatives to selling their farms for development. Such programs not only contribute to the necessary preservation of a strong national agricultural land base, but serve to safeguard the land providing locally grown supplies of fresh agricultural products, as well.

Farmers across the Nation have expressed their concern about the loss of farmland to nonfarming uses like subdivisions, highways, and commercial development. A recent survey coordinated by the American Farmland Trust found that 65 percent of farm operators believe farmland conversion to be a big or moderate problem. For the survey, AFT interviewed 1,000 farm operators randomly selected from a total of 42,860 producers in 100 agricultural counties, spread over 22 leading agricultural States.

The district I represent, Bucks County, PA, has experienced drastic reductions in agricultural infrastructure and farmland. Over the last 7 years we have lost 27,000 acres of farmland in our county. Almost 67,000 acres each year are being lost statewide. The State of Pennsylvania very recently has seen fit to establish a trust fund to aid communities in their fight to reward those farsighted States that have already set up a farmland protection program and would create an incentive for those States that have yet created such a program.

Because the early settlers founded many of this Nation's towns and cities in close proximity to fertile agricultural lands, the expansion of these cities have come at the expense of expansion in some of the most productive lands in the country. While urban expansion in some form is inevitable, without effective programs to address rationally the conversion of valuable farmland to nonagricultural uses, the Nation will increasingly depend on a limited number of marginal farms to produce the food. The loss of productive farmland comes at great cost to the consumer, the environment, and our international competitiveness in agricultural trade.

Environmentally, it is irresponsible to allow the Nation's most productive farmland to be lost to development. It is our most productive farmland that produces the most food at the least cost; the same land that requires the least input of agricultural chemicals and fertilizers, and is the least susceptible to soil erosion. As our agricultural land base dwindles, and our population increases, intensive production will be pushed onto land which is not ecologically suited to such use. Intensive production on sensitive lands contributes to the deterioration of soil, water and air resources, as well as the loss of threatened wildlife habitat.

Economically, it is unwise to allow the present trend of farmland conversion to continue. The U.S. food and fiber industry accounts for about 18 percent of our total gross national product, and we export nearly $40 billion worth of agricultural goods annually. At the State level, agriculture and agriculture-related industry accounts for at least 20 percent of total employment in 25 percent of the States.

Farmland conversion is a problem of serious importance, both nationally and locally. Recognizing the serious national ramifications of the dwindling agricultural land base, Congress passed the Farmland Protection Policy Act as part of the Agriculture and Food Act of 1981, in order to minimize the contributions of Federal programs to the conversion of farmland. Similarly, many States have established farmland protection programs in recognition of the grave local and State socioeconomic costs associated with farmland conversion, as well.

To further address the problem of farmland conversion at the national level, I introduced the Farms for Future Act on May 2, 1990. The legislation provides for loan guarantees to be made on a matching basis to qualifying State farmland protection programs. Additionally, the qualifying States would be fully reimbursed for the interested expenses during the first 5 years of the guaranteed loan.

As an amendment to the farm bill, the program established by this legislation would provide valuable financial assistance to State purchase-of-development-rights [PDR] and other farmland protection programs. These programs provide many important benefits to the States in which they operate by allowing farmers to voluntarily sell the development rights of their property, which would then remain in agricultural use perpetually.

By providing modest financial assistance to State farmland protection programs, the Farms for the Future Act further strengthens an established Federal-State partnership for farmland protection which has existed for nearly 10 years. Such a partnership is crucial to the continued viability of a geographically diverse agricultural industry.

The problems for traditional farming areas that stem from urban and suburban sprawl occur in areas beyond my district in Pennsylvania. In many small towns across the United States, the business districts wither while little shopping malls are built on the outskirts of town where crops formerly grew. These little shopping malls require expenditures for parking lots and other infrastructure—expenditures that were paid the first time a generation ago to create the town's main street.

Tax and financing policies far beyond the scope of this legislation perpetuate the problems. But we have the opportunity to provide a modest counterbalance, an offset to forces that can contribute to the destruction of a valuable natural resource. We should seize that opportunity.

ROUNDTABLE DISCUSSION HELPS FORGE BETTER UNDERSTANDING OF UNITED STATES-MEXICO TRADE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DE LA GARZA. Mr. Speaker, I was pleased to moderate a public policy forum in Coronado, CA, on June 29, 1990, called "U.S.-Mexico Relations in a Changing Global Economy." This roundtable forum was sponsored by the Citizens Network for Foreign Affairs and cosponsored by the American Chamber of Commerce of Mexico City; the Bank of America; the Border Trade Alliance; the Foreign Trade Association; and the United States-Mexico Chamber of Commerce.

The purpose of this roundtable forum was to forge a better understanding of the economic interdependence between the United States and Mexico and to hopefully lay the groundwork for further improvements in the bilateral relationshipo between our two countries. In addition, we also discussed the future trading relationship between the United States, Mexico, and Canada.

Participants in the roundtable included leaders from both the public and private sectors. Besides myself, other participants included the Mexican Secretary of Commerce, Dr. Jaime Serra Puche; the Mexican Ambassador to the United States, H.E. Gustavo Petricioli; the Mexico Ambassador at Large, H.E. Miguel Aleman; Hon. Don Newquist, member of the U.S. International Trade Commission; Mr. Robert Clark, Director for U.S. Trade and Development Policy for the Canadian Department of External Affairs; Hon. Ernesto Ruffo, Governor of the Mexican state of Baja California Norte; Mr. John G. Smale, chairman of the Executive Committee Board of Proctor and Gamble; and approximately 150 other bankers and businessmen from the United States, Mexico, and Canada.

Mr. Speaker, I am pleased to provide our colleagues the following conclusions and recommendations reached by the participants at this meeting:

I. The people of Mexico and the United States are neighbors, friends, and business partners. Mexico is the United States' third largest trading partner, and the United States is Mexico's largest trading partner. The growing cultural, environmental, and economic relationship between our two countries presents truly great opportunities for both Mexico and the United States. Recent economic reforms initiated by Mexico and its people have ushered in a new era of mutual cooperation, friendship, and respect between the two countries. Both countries look forward to a closer relationship during the 1990's, while maintaining their unique national strengths and interests.

II. The Roundtable agreed that trade between Mexico and the United States is natural and inevitable. Therefore, the Roundtable welcomed Presidents Bush's and Salinas' announcement earlier this month of their intention to begin consultative talks before a formal free trade agreement. The Roundtable agreed that the consultative talks constitute a cautious and appropriate first step in formulating an acceptable and workable free trade agreement between our two countries.

The Roundtable also agreed that such consultative talks will provide both countries with the opportunity to fully assess any agreement that might come out of the "Uruguay Round" of GATT negotiations, which are expected to conclude this coming December. Specifically, if multilateral agreements are reached on agriculture, textiles, services, and intellectual property rights, bilateral free trade negotiations between Mexico and the United States will become easier and more productive.

The Roundtable suggested that both Presidents express formally their intent to enter into negotiations on a free trade

agreement during President Bush's visit to Monterrey, Mexico this coming December. The Roundtable also suggests that President Bush, as required by the 1988 Trade Law, formally notify the U.S. Congress of his intention to enter into negotiation on a free trade agreement with Mexico when the 102th Congress convenes in January, 1991.

The participants agreed that if Mexico and the United States are able to negotiate a free trade agreement, we could be on the verge of creating a North American Free Trade Area. Therefore, Canada should be invited to participate in such negotiations if Canada finds that a trilateral free trade agreement is in its best interest.

Lastly, after discussing the possibility of a United States-Mexico free trade agreement, all participants agreed that such an agreement would be of great benefit to both countries' economies, and therefore both countries should pursue a mutually beneficial and complementary free trade agreement.

III. Economic policy reform in Mexico, especially in the areas of trade and investment, has and will continue to lead to greater prosperity for the Mexican people. It will also provide valuable opportunities for both Mexican and United States exporters, investors, and workers. However, despite the great progress that Mexico has made during the past two years in liberalizing its economy, potential participants in the Mexican economy continue to require assurances that such reforms in Mexico will be permanent. For example, in addition to promulgating relaxed regulations on direct foreign investment, which Mexico has done, the Mexican government should consider making such regulations permanent in order to maximize the confidence of foreign investors in the Mexican economy.

Signed on June 29, 1990, in Coronado, CA by H.E. Gustavo Petricioli, Ambassador of Mexico; and Hon. E. (Kika) de la Garza, Chairman, Committee on Agriculture, U.S. House of Representatives.

INTRODUCTION OF AIDS LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to assure that 35 States, Guam, the Virgin Islands, and the District of Columbia don't lose critical funding for AIDS.

As a result of a formula change contained in the Health Omnibus Programs Extension Act of 1988, these States and territories have been notified by the Centers for Disease Control that they stand to lose substantial funds in fiscal year 1991.

My home State of Connecticut, for instance, received $1.237 million in fiscal year 1989, a similar amount this year, and will be slashed to $787,000 in fiscal year 1991, a dramatic 36 percent cut. While I understand that all the States are struggling to cope with the AIDS crisis, Connecticut has a high incidence of AIDS and, in fact, the highest incidence of pediatric AIDS in the Nation.

Therefore, this legislation, would provide for a hold harmless provision for fiscal year 1991. Pursuant to this provision, no State could receive less than it does currently.

Those States which stand to lose funding in fiscal year 1991 include: Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Georgia, Guam, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Vermont, Virginia, the Virgin Islands, Washington, West Virginia, Wisconsin, and Wyoming.

I urge my colleagues' support.

THE FAIRNESS AND COMPETITIVE FOREIGN INCOME TAX ACT OF 1990

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. FRENZEL. Mr. Speaker, the provisions of the Senate and House versions of the Tax Reform Act of 1986 (Public Law 99-514) were reconciled under severe budgetary and time pressures.

As a result of these pressures, inequities in the taxation of foreign source income resulted. Several provisions of the 1986 Tax Reform Act caused similar situations to be subject to widely differing tax treatment. Tax Reform, not only failed to address areas of asymmetrical tax treatment, but exacerbated their ill effects. Overall, the Tax Reform Act failed to deal either fairly or wisely with the taxation of foreign source income. Instead, it created confusion and made U.S. companies even less able to compete in international markets.

In the 1st session of the 100th Congress, I introduced H.R. 3365, the Foreign Income Tax Equity Act of 1987, to correct the inequities resulting from the 1986 Act. Since that time, Congress has acted to correct a few of these inequities. For the most part, however, the Congress has failed to tackle the major tax issues which unfairly impact U.S. operations abroad.

Accordingly, I am introducing a follow-up bill, the Fairness and Competitive Foreign Income Tax Act of 1990, to correct the remaining inequities identified in my earlier bill, as well as several others which have emerged in the intervening period.

My new bill would correct these problems, provide symmetry in our Tax Code, and reestablish basic principles consistent with sound tax policy. The Fairness and Competitive Foreign Income Tax Act would substantially reduce the incidence of international double taxation, primarily through changes to the rules governing the foreign tax credit limitation, income sourcing, and expense allocation.

This act would eliminate the arbitrary 90-percent limitation on claiming foreign tax credits against minimum tax liability. Under the act, gains from the sale of stock on 10-percent owned foreign corporations—section 902 corporations—would create foreign source, general limitation income for the purposes of foreign tax credit limitations, provided that various qualifications are met. Similarly, gains from the sale of an interest in a foreign partnership would give rise to foreign source, general limitation income.

Dividends, interest, rents, or royalties received from section 902 corporations, look-through rules would apply, thus allowing general limitation treatment. Domestic losses, which reduce foreign source income and foreign tax credits, would be recaptured. Subsequent U.S. source income would be resourced as foreign source income and foreign tax credits, would be resourced as foreign source income, in order to avoid double taxation and provide symmetrical treatment for overall foreign losses in the calculation of the foreign tax credit limitation. With respect to foreign income tax payments, the act would generally provide for the translation of foreign income taxes using the translation rate applicable to earnings and profits distributions.

Consistent with a true worldwide fungibility concept, the Fairness and Competitive Foreign Income Tax Act would provide for the allocation of interest expense on the basis of the borrowings and assets of the taxpayer's worldwide affiliated group. The act would make permanent the rule of allocation 64-percent of U.S. R&D expenditure to U.S. source income, with the remainder apportioned on the basis of asset or sales. Under this act, deductions for State and local income and franchise taxes would be allocated to U.S. source income for foreign tax credit purpose.

In the subpart F area, the Fairness and Competitive Act would allow all pre-1987 (post-1962) accumulated deficits to offset similar subpart F income earned after 1986. Consistent with the legislative intent of the 1986 Tax Reform Act, this act would also exclude from the Passive Foreign Investment Company [PFIC] provisions those companies subject to subpart F provisions of the Code.

Except as otherwise noted, the Fairness and Competitive Foreign Income Tax Act would be applicable to taxable years beginning after December 31, 1990.

THE FUTURE OF OUR ENERGY POLICY

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. THOMAS of Wyoming. Mr. Speaker, today's events in the Middle East should focus attention on our need to give some consideration to domestic energy policy. For years we have watched the percentage of oil imports into our country rise, and consumers have enjoyed relatively low prices. However, this price comfort has come at a high cost in a number of other areas—specifically, a distorted balance of trade, economic hardship for the energy producing States, and perhaps worst of all the risk of oil dependence on Governments such as Iraq.

We need an energy policy which balanced oil imports with increased incentives for domestic oil producers so that we strengthen our economy and reduce the risk of dependence on loose-cannon dictators such as Saddam

Hussein. Crises has sadly forced us to review our energy policy. We must concentrate on our domestic energy producers and energy production.

Mr. Speaker, as we consider the future of our energy policy, we need to make certain we deal with substantive policy matters and not disguise it as a means of raising tax revenues.

ONIBAR-GENEVA REUNION TO BE HELD IN LAKE COMO, PA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLARZ. Mr. Speaker, later this month, nearly 200 men and women will assemble in Lake Como, PA, for an on-site reunion of Camps Onibar and Geneva. Although I cannot be at the reunion, I rise in tribute to the camp that I attended for many years, and to the many friendships and great memories that originated there.

Founded in the 1920's by the Rabbino family, Onibar (the boys camp) and Geneva (the girls camp) were high on the list of exceptional private camps for a period of more than 40 years. Situated in a beautiful area of the Pocono Mountains, Onibar and Geneva attracted boys and girls who returned year after year for carefree summers of enjoyment, fulfillment, and good fellowship.

The camps were sold in 1968 to a nonprofit organization, which has graciously agreed to host the reunion. The tireless efforts of co-chairmen Steve Freidus and Ed Feldstein have produced a monumental mailing list of alumni, and I was not surprised to learn that people will be coming from all areas of the country to renew friendships and relive the days of their youth. Of special interest is the fact that nearly all the living members of the Rabbino family will be there, including Mike, Mitch, Bea, Sue, Bernie, Irma, and numerous spouses and children. From the celebrity ranks come Garry and Penny Marshall, Marvin Hamlisch, and James Caan. And of course Onibar-Geneva legends such as Herb Saturn, Johnny Goldman, Marlene Rose, Lenny Kramer, and so many others too numerous to mention.

Camp Onibar played a very important role in my life. As leader of the Buff team in 1956, I received some on-the-job training for a career in politics. And it was on an Onibar trip to Harrisburg that same year that I made a campaign speech for Adlai Stevenson on the steps of the State Capitol, attracting a lunchtime crowd and earning a write-up in the following day's newspaper—I trust my efforts did not contribute to Governor Stevenson's defeat. As editor-in-chief of the Onibarker, I developed a "nose for news" that has persisted to this day. And finally, what is most important, friendships that have endured for more than 35 years began at camp, most notably with Gary Grossman, known in those days as "The Creeper."

I'm sorry that I won't be at the reunion, but I wish everyone well and look forward to having an opportunity to see all my camp friends on another occasion.

A TRIBUTE TO EUGENE F. THORNTON

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CALLAHAN. Mr. Speaker, today, I have the privilege of recognizing Eugene Fabbretta Thornton, Jr., master chief personnelman of the U.S. Navy. Earlier this morning aboard the Display Ship *Barry*, the master chief received his transfer to the Fleet Reserve in honor of his retirement, after some 22 years of active service to our country.

Master Chief Thornton was born in 1948 in my hometown of Mobile, AL. He enlisted in the Navy at the age of 20, and since that humble beginning, he has climbed the ranks of service to our Nation. Over the years, many numerous accolades have come his way, some of which include: The National Defense Service Medal, the Sea Service Deployment Ribbon, The Vietnam Campaign Medal and the Vietnam Service Medal with three Bronze Stars.

Throughout his career, Master Chief Thornton's subordinates, peers and seniors, alike, have regarded him as "firm, but fair," in his role as a disciplinarian and humanitarian. Looking through his naval letters of recommendation, he was always suggested for the most demanding positions and the most heightened challenges.

Beyond the call of our Nation's security, Master Chief Thornton has met the ongoing responsibility he feels for his community by serving on a committee for the Virginia State Handicapped as well as a local chapter of the PTA. A devout Catholic and recipient of a Preliminary Catechist Certificate, the master chief has used this acquired knowledge of theology and psychology in his teaching of junior and senior high Sunday school. In addition, he has been active in local Scouting as both a Boy and Girl Scout leader, and has even coached a youth league basketball team.

Master Chief Thornton is a man who exemplifies the very best we, as Americans, have to offer. He is a role model who has shown by example that we often discover our true selves whenever we are really challenged. Those of us who have had the opportunity to work with Master Chief Thornton have benefited from his discipline and compassion—qualities that he, himself, puts into practice every day.

On this special occasion, I want to congratulate the master chief, his wife Linda Mae and their six children. Eugene Thornton is truly a great American, and I'm proud and honored to call him my friend.

TRIBUTE TO FIRST EVANGELICAL LUTHERAN CHURCH

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the upcoming 50th anniversary of the founding of the First Evangelical Lutheran Church of Odenton, MD. On September 8, 1940, Rev. Emmanuel T. Finck traveled to the town of Odenton to deliver its first Lutheran service, and in so doing initiated the formation of an assembly which has grown over the last 50 years.

Reverend Finck served First Evangelical Lutheran Church, through its membership into the Evangelical Lutheran Synod of Missouri, Ohio, and the establishment of a Sunday school and kindergarten, until he passed away on May 30, 1960. Reverend Finck has been followed by a distinguished company; Rev. Walter E. Koller, Pastor John L. Beck, Rev. James O'Conner, Rev. H. Douglas Rathjen, and Daniel H. Quiram. The present pastor, Rev. Robert H. Bell, has led the congregation since October 23, 1983.

This remarkable congregation has conducted monthly celebrations since last December; with songfests, ice cream socials, and a sweetheart dance, all culminating on Thanksgiving Day. A cornerstone in the community of Odenton, this congregation of over 574 has established itself as a growing source of spiritual values, moral teachings, and learning. This church and its members are an inspiration for all of us and the many similar communities and congregations nationwide that provide the social bedrock for America. Mr. Speaker, I would like to urge my colleagues to join with me in congratulating the First Evangelical Lutheran Church of Odenton on its 50th anniversary.

SEPTEMBER 13, 1990—NATIONAL DARE DAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to a continuing program of concern, caring, and commitment, DARE [Drug Abuse Resistance Education]. This program will be recognized on September 13, 1990, as we celebrate National DARE Day.

This year, more than 4.5 million schoolchildren across the country will learn the skills they need to resist pressure to take drugs or join gangs, thanks to the highly acclaimed DARE program.

DARE is a police officer-led, semester-long series of 17 lessons that teach fifth- and sixth-grade children how to resist pressure to experiment with drugs and alcohol, supplemented by classes in junior and senior high schools.

Chief Daryl Gates of the Los Angeles Police Department established DARE in 1983 to help prevent substance use among young people. The Los Angeles Police Department collaborated with the Los Angeles Unified School District to design and implement an effective drug-use prevention education curriculum. The DARE program has proven so successful that it has been adopted by schools in more than 2,000 communities in 49 States. It has also been adopted in Australia, New Zealand, American Samoa, and Canada.

The DARE program goes far beyond traditional drug abuse education programs which typically emphasize drug identification and utilize scare tactics about the harmful effects of drugs and alcohol. DARE teaches young people to recognize subtle and overt pressures to experiment with drugs and alcohol, and pragmatic, and real-world ways to resist.

The DARE curriculum is taught by police officers who have come straight from the streets. Their years of direct experience with street crimes caused by substance abuse gives them credibility among students unmatched by teachers, movie television celebrities or professional athletes.

Independent evaluations show students have learned to resist drugs and combat peer pressure. In addition, school vandalism, truancy and gang activity have decreased, and students have developed a more positive outlook toward police and school.

I ask my colleagues in the U.S. House of Representatives to join me in saluting this fine program for a job well done.

RHODE ISLAND NATIONAL NIGHT OUT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. SCHNEIDER. Mr. Speaker, I would like to take this opportunity to commend some of my friends in Rhode Island on their efforts to fight crime and drugs. Specifically, I would like to applaud the Governor's Justice Commission and the Naval Education Training Center, who in conjunction with the National Night Out, will be sponsoring a unique crime and drug prevention event on August 7.

National Night Out, a national citizens campaign against crime, provides an opportunity for citizens and law enforcement agencies to work together to make the streets of America safe. Designed to increase awareness about crime and drug use prevention, generate support for local anticrime programs, and strengthen neighborhood spirit and involvement in crime prevention, National Night Out is the kind of grassroots action that is critical in the war on drugs. As I have stated on numerous occasions, the drug epidemic is a national problem with local, community-based solutions.

On August 7 some 2,000 people will be able to learn more about crime and drug use prevention through various informational booths and displays, including one on McGruff the Crime Dog. The Newport, Portsmouth, Middletown, and Jamestown police departments will also be present to discuss child safety and other issues of concern. In addition to these important informational events, the Navy Rhode Island Sound will present a concert featuring a variety of music. Once again, I would like to applaud my fellow Rhode Islanders for their initiative and commitment to making our State crime and drug free.

RECOGNIZING ARLINGTON, OH, AS FLAG VILLAGE, U.S.A.

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. OXLEY. Mr. Speaker, I want to commend and recognize the community of Arlington, OH, as Flag Village, U.S.A.

The citizens of Arlington have a unique pride in our national flag. Arlington is becoming well-known in Ohio for its unwavering support for the United States and our flag. In these times of flag-burning and anti-patriotic sentiment, it is up to communities, such as Arlington, to promote patriotic themes. To me, there is no sight more beautiful than the streets of Ohio hometowns lined with red, white, and blue.

The flag of the United States is not just another piece of cloth. It is not, as some would have us believe, a mere tool for one philosophy or point of view to utilize. Rather, our flag is symbol for the Nation, a rallying point in times of trouble, and unifying force in times of peace. The people of Arlington recognize this fact.

Like the citizens of Flag Village, U.S.A., I was deeply disappointed that the Congress failed to provide constitutional protection for our flag. Arlington, OH, knows that for those of us who support Old Glory, we must continue to fly our flag higher, more often, and with a greater sense of pride and patriotism than ever before. We cannot allow the defeat of a constitutional amendment to lessen our devotion to all that our flag represents. I believe the people of Arlington, the people of Flag Village, U.S.A., will agree with my colleague Representative HENRY HYDE when he said about the flag, "too many have marched beside it—too many have slept in their caskets beneath it—too many parents, children, and widows clutch a flag folded into a triangle as the final rememberance of their loved one" to allow our commitment and support for Old Glory to be weakened.

Thank you Mr. Speaker, and thank you Flag Village, U.S.A.

CONGRATULATIONS TO THE ESSELTE PENDAFLEX CORP. OF GARDEN CITY, N.Y.

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McGRATH. Mr. Speaker, I rise today to offer congratulations to the Esselte Pendaflex Corp., located in Garden City, NY.

In these environmentally conscious times, it is enlightening to find private industry taking steps to improve our ecological State. Just recently, Esselte Pendaflex introduced a line of filing supplies made exclusively from recycled fibers. The Esselte Earthwise file folder line consists of the standard array of styles, available in five different earth-tone hues—all made from 100 percent recycled fibers.

Mr. Speaker, today's heightened awareness of environmental issues has led consumers to seek products that in some way contribute to the preservation of the Earth's natural resources. Since an enormous amount of these resources are consumed in the workplace, I regard the introduction of the Earthwise line as a major innovation in the $100 billion office supplies industry and congratulate the employees of Esselte Pendaflex for taking one small step to clean the planet.

RESOLUTION ON 1992 UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. WALKER. Mr. Speaker, today, I am offering a resolution concerning the 1992 U.S. United Nations conference on environment and development which will be hosted in Brazil.

Prior to that conference, our United States delegation will be involved in the negotiations on the format and the topic issues. In fact, this month preliminary discussions are starting in Nairobi, Kenya.

With the world's growing awareness of global environmental problems and our Nation's efforts to clean up our environment, I believe we need to highlight to the American people the importance of our role in the conference and urge our delegation to seek an internationally agreed standard for pollution controls.

Our delegation should also seek international standards that do not place advanced industrial nations at a competitive disadvantage with those countries who continue to disregard the environment. Advanced industrial nations should not be handicapped because of stricter environmental standards. This can be implemented by focusing attention on innovative technologies to reduce or eliminate pollutants.

Finally, the United Nations should establish an effective international monitoring system to track implementation of treaties and agreements on pollution abatement.

The importance of this conference cannot be understated. We need to act now so our U.S. delegation to the United Nations understands that this Congress is deeply committed to fair and effective worldwide environmental standards.

THE HIGH MEDICARE HOSPITAL RELIEF ACT OF 1990

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SHAW. Mr. Speaker, on Monday July 23, 1990, I introduced H.R. 5348, the High Medicare Hospital Relief Act of 1990, which is designed to provide temporary relief for hospi-

tals with a high percentage of Medicare patients. By definition, a high Medicare hospital is one in which at least 65 percent of discharges are reimbursed by Medicare. These hospitals are vital to seniors, and my State of Florida has more of these institutions than any other State.

Because so many of their patients are covered by Medicare, these hospitals have little or no room to make up Medicare losses by charging more to non-Medicare patients. As a result of these and other factors, high Medicare hospitals are experiencing severely reduced, and in some cases negative, Medicare operating margins. It is noteworthy that the problems these hospitals face are not caused by mismanagement or low occupancy. Instead, they face a flaw payment system which short changes institutions with a significantly high proportion of Medicare patients. Over the years these hospitals have trimmed costs by staff cuts and tighter management. But now some hospitals are considering actual reductions in service or outright closure.

The issue of high Medicare hospitals was placed on the Prospective Payment Assessment Commission [ProPAC] agenda in response to a Ways and Means Committee request in the FY 1990 reconciliation bill. ProPAC, in its preliminary findings, determined that a problem exists. Their current recommendation is to withhold relief while they continue further study, even though their information verifies that these hospitals are experiencing greater negative Medicare operating margins than other hospitals.

Mr. Speaker, high Medicare hospitals can't wait for the result of further study. The High Medicare Hospital Relief Act attempts to address the disparity between the operating margins of high Medicare and nonhigh Medicare hospitals. This bill works in a simple way. It provides an additional payment for each Medicare discharge from a high Medicare hospital. High Medicare hospitals are critical resources of the retirement communities they service. Without positive action, across to quality hospital care will be undermined in Florida and elsewhere in the country where hospitals serve primarily the elderly.

I invite my colleagues to join in this worthy effort.

TRIBUTE TO FLORIDA INFORMED PARENTS FOR DRUG FREE YOUTH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the wonderful work done by Florida Informed Parents for Drug Free Youth, Inc. [FIP], an organization that has tried to begin a grassroots movement to rid the State of Florida from the scourge of drugs.

FIP believes that a concentrated endeavor by families and key members of the community is essential if a drug-free Florida is ever to be achieved. FIP represents this idea by what they call the "Drug Free America Wheel" in which the family and the neighborhood community are the core of the solution. The outer edges of the wheel include government and business services all striving to rid this Nation of drugs.

FIP is having their 6th Annual Summer Networking Conference in Orlando, FL, on August 13, 1990. At the conference, they will be discussing such issues as volunteer recruitment, group structure, and public relations. It is all aimed at organizing communities throughout all of Florida to provide leadership in the fight against drugs.

It is of vital importance that groups like FIP make a difference in communities. We need to find an end to the drug problem. The involvement of parents, family members, and the community are the solid foundation that we need to build the process of curing and curbing the drug problem. The people of Florida owe FIP a debt of gratitude for making Florida and my community a better place to live. Special thanks must also be extended to: Alex Mitchell, president; Robin Burns, vice president; Bennie Spanjers; Marlene Josefsberg, secretary; Cathy Bleyer, treasurer; and Dr. Willie Brown, District XI director.

A TRIBUTE TO LT. GEN. CHARLES W. BROWN, USA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a most distinguished gentleman, Lt. Gen. Charles W. Brown of Rushville, NE. General Brown, who will retire from the U.S. Army on August 31, 1990, has served his country admirably for over 37 years.

General Brown grew up on a ranch in Rushville. He graduated from New Mexico Military Institute in 1953 where he majored in biology and excelled in rodeo and polo. He was subsequently commissioned from the Army ROTC as an Armor officer. During his military service, he completed a masters in public administration degree at Penn State University and recently studied national security at Harvard. His military education included attendance at the U.S. Army Command and General Staff College and the U.S. Army War College.

During General Brown's military career, he served in a variety of locations including Alaska, England, France, Luxembourg, Germany, Vietnam, Dominican Republic, Korea, and numerous military posts in the United States. His key command assignments have been Commander, 143d Signal Battalion, 3d Armored Division, Germany; Deputy Commander, 1st Signal Brigade, Korea; Commander, Division Support Command, 2d Armored Division in Texas; Commander, 200th Theater Army Materiel Management Center, Germany; and Commander, 2d Support Command, VII Corps, Germany. His combat experience included two tours in Vietnam.

His key staff assignments have been with Headquarters, Military Assistance Command, Vietnam and the 21st Vietnamese Infantry Division; Headquarters, 82d Airborne Division; Office of the J3, U.S. European Command; Headquarters, Forces Command; Army Materiel Command; Office of the Deputy Chief of Staff, Logistics, Department of the Army; Assistant Deputy Chief of Staff, Logistics, U.S. Army Europe and Seventh Army; and Assistant Deputy Chief of Staff, Logistics, Department of the Army.

For the past 3 years, General Brown has served as Director of the Defense Security Assistance Agency. He has been responsible for managing Department of Defense activities related to formulation and execution of security assistance programs averaging $12 billion in foreign sales over the last three years. General Brown has been successful in formulating programs that have contributed to improving U.S. relations with several countries of critical importance to U.S. national security strategy. He has played a leading role in efforts to preserve our industrial base through increasing foreign sales. His leadership, courage, and diplomatic acumen have made the difference between success and failure in this critical area of U.S. international relations.

General Brown's personal decorations include the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit (with Oak Leaf Cluster), the Bronze Star Medal with V Device (and Oak Leaf Cluster), the Meritorious Service Medal (with Oak Leaf Cluster), Air Medal, the Joint Service Commendation Medal, and the Army Commendation Medal (with Oak Leaf Cluster). He is also authorized to wear the Parachutist Badge, Air Crew Badge, and the Vietnamese Cross of Gallantry.

Mr. Speaker and colleagues, please join me today in recognizing the distinguished career of Lieutenant General Brown. His outstanding contributions are an inspiration not only to his wife, Sherry, and his family, but to all of us. His service to country is certainly worthy of recognition by the House of Representatives today.

REFLECTING ON THE 1980S AND RONALD REAGAN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues, the following abstract of Kevin Phillips' new book, the Politics of the Rich and Poor, which appeared in the June 24 edition of the New York Times magazine section.

Mr. Phillips offers thoughtful insight on economic realignment in the 1980's and how it will affect all Americans in the 1990's.

In reading Mr. Phillips' essay, certain disturbing facts emerge. The gap between the very rich and the very poor hit new heights in the 1980's. Profitable and conservatively operated companies became prey for the corporate raiders. The United States, formerly the world's largest creditor nation, became the world's leading debtor nation.

Greed and avarice—characteristics almost deified by the roaring, go-go eighties—gave rise to the savings and loan debacle and the glut of leveraged buyouts and junk bond-fi-

nanced deals. As we all know, cleaning up the mess will be long and arduous and very expensive.

Mr. Speaker, Mr. Phillips' book makes it clear that we cannot permit the 1990's to be a replay of the 1980's. If America is to succeed in this increasingly competitive and complex world, we must return to traditional values and steer away from policies to make the rich richer at the expense of everyone else.

REAGAN'S AMERICA—A CAPITAL OFFENSE

(By Kevin P. Phillips)

The 1980's were the triumph of upper America—an ostentatious celebration of wealth, the political ascendancy of the rich and a glorification of capitalism, free markets and finance. Not only did the concentration of wealth quietly intensify, but the sums involved took a megaleap. The definition of who's rich—and who's no longer rich—changed as radically during the Reagan era as it did during the great nouveaux riches eras of the late 19th century and the 1920's, periods whose excesses preceded the great reformist upheavals of the Progressive era and the New Deal.

But while money, greed and luxury became the stuff of popular culture, few people asked why such great wealth had concentrated at the top and whether this was the result of public policy. Political leaders, even those who professed to care about the armies of homeless sleeping on grates and other sad evidence of polarized economy, had little to say about the Republican Party's historical role; to revitalize capitalism but also to tilt power, Government largess, more wealth and income toward the richest portion of the population.

The public, however, understood and worried about this Republican bias, if we can trust late 80's opinion polls; nevertheless, the Democrats largely shunned the issue in the '88 election, a reluctance their predecessors also displayed during Republican booms of the Gilded Age of the late 19th century and the Roaring Twenties.

As the decade ended, too many stretch limousines in Manhattan, too many yacht jams off Newport Beach and too many fur coats in Aspen foreshadowed a significant shift of mood. Only for so long would strungout $35,000-a year families enjoy magazine articles about the hundred most successful businessmen in Dallas, or television shows about greed and glitz. Class structures may be weak in the United States, but populist sentiments run high. The political pendulum has swung in the past, and may be ready to swing again.

Indeed, money politics—but it avarice of financiers or the question of who pay for the binges of the 80's—is shaping up as a prime theme for the 1990's. As we shall see, there is a historical cycle to such shifts: Whenever Republicans are in power long enough to transform economic policy from a middle-class orientation to capitalist overdrive, the rich get so far ahead that a popular reaction inevitably follows, with the Democrats usually tagging along, rather than leading.

But this time, the nature of the reaction against excess is likely to be different. The previous gilded ages occurred when America was on the economic rise in the world. The 1980's on the other hand, turned into an era of paper entrepreneurialism, reflecting a nation consuming, rearranging and borrowing more than it built. For the next generation of populists who would like to rearrange American wealth, the bad news is that a large amount of it has already been redistributed—to Japan, West Germany and to the other countries that took Reagan-era I.O.U.'s and credit slips.

Society matrons, Wall Street arbitrageurs, Palm Beach real-estate agents and other money-conscious Americans picking up USA Today on May 22, 1987, must have been at first bewildered and then amused by the top story. In describing a Harris survey of the attitudes of upper-bracket citizens, the article summed up the typical respondent as "rich. Very. He's part of the thinnest economic upper crust: households with incomes of more than $100,000 a year."

A surprising number of 1980's polls and commentaries contributed to this naïve perception—that "rich" somehow started at $50,000 or $100,000 a year, and that gradations above that were somehow less important. The truth is that the critical concentration of wealth in the United States was developing at higher levels—decamillionaires, centimillionaires, half-billionaires and billionaires. Garden-variety American millionaires had become so common that there were about 1.5 million of them by 1989.

In fact, even many families with what seemed like good incomes—$50,000 a year, say, in Wichita, Kan., or $90,000 a year in New York City (almost enough to qualify as "rich," according to USA Today)—found it hard to make ends meet because of the combined burden of Federal income and Social Security taxes, plus the soaring costs of state taxes, housing, health care and children's education. What few understood was that real economic status and leisure-class purchasing power had moved higher up the ladder, to groups whose emergence and relative affluence Middle America could scarcely comprehend.

No parallel upsurge of riches had been seen since the late 19th century, the era of the Vanderbilts, Morgans and Rockefellers. It was the truly wealthy, more than anyone else, who flourished under Reagan. Calculations in a Brookings Institution study found that the share of national income going to the wealthiest 1 percent rose from 8.1 percent in 1981 to 14.7 percent in 1986. Between 1981 and 1989, the net worth of the Forbes 400 richest Americans nearly tripled. At the same time, the division between them and the rest of the country became a yawning gap. In 1980, corporate chief executive officers, for example, made roughly 40 times the income of average factory workers. By 1989, C.E.O.'s were making 93 times as much.

Finance alone built few billion-dollar fortunes in the 1980's relative to service industries like real estate and communications, but it is hard to overstate Wall Street's role during the decade, partly because Federal monetary and fiscal policies favored financial assets and because deregulation promoted new debt techniques and corporate restructuring.

Selling stock to retail clients, investment management firms or mutual funds paid well; repackaging, remortgaging or dismantling a Fortune 500 company paid magnificently. In 1981, analysts estimate, the financial community's dozen biggest earners made $5 million to $20 million a year. In 1988, despite the stock-market collapse the October before, the dozen top earners made $50 million to $200 million.

The redistribution of American wealth raised questions not just about polarization, but also about trivialization. Less and less wealth was going to people who produced something. Services were ascendant—from fast food to legal advice, investment vehicles to data bases. It is one thing for new technologies to reduce demand for obsolescent professions, enabling society to concentrate more resources in emerging sectors like health and leisure. But the distortion lies in the disproportionate rewards to society's economic, legal and cultural manipulators—from lawyers and financial advisers to advertising executives, merchandisers, media magnates and entertainers.

A related boom and distortion occurred in nonfinancial assets—art and homes, in particular. Art and antiques appreciated fourfold in the Reagan era, to the principal benefit of the richest 200,000 or 300,000 families. Similar if lesser explosions in art prices took place in the Gilded Age and in the 1920's. While the top one-half of 1 percent of Americans rolled in money, the luxuries they craved—from Picassos and 18th-century English furniture to Malibu beach houses—soared in markets virtually auxiliary to those in finance.

Meanwhile, everyone knew there was pain in society's lower ranks, from laid-off steelworkers to foreclosed farmers. A disproportionate number of female, black, Hispanic and young Americans lost ground in the 1980's, despite the progress of upscale minorities in each category. According to one study, for example, the inflation-adjusted income for families with children headed by an adult under 30 collapsed by roughly one-fourth between 1973 and 1986.

Even on an overall basis, median family and household incomes showed only small inflation-adjusted gains between 1980 and 1988. Middle America was quietly hurting too.

While corporate presidents and chairmen feasted in the 1980's, as many as 1.5 million midlevel management jobs are estimated to have been lost during those years. Blue-collar America paid a larger price, but suburbia, where fathers rushed to catch the 8:10 train to the city, was counting its casualties, too. "Middle managers have become insecure," observed Peter F. Drucker in September 1988, "and they feel unbelievably hurt. They feel like slaves on an auction block."

American transitions of the magnitude of the capitalist blowout of the 1980's have usually coincided with a whole new range of national economic attitudes. Evolving government policies—from tax cuts to high interest rates—seem distinct, but they are actually linked.

Whether in the late 19th century, the 1920's or the 1980's, the country has witnessed conservative politics, a reduced role for government, enterpreneurialism and admiration of business, corporate restructuring and mergers, tax reduction, declining inflation, pain in states that rely on commodities like oil and wheat, rising inequality and concentration of wealth, and a buildup of debt and speculation. The scope of these trends has been impressive—and so has their repetition, through the two periods of the 20th century have involved increasingly more paper manipulation and less of the raw vigor typical of the late 19th-century railroad and factory expansion.

Federal policy from 1981 to 1988 enormously affected investment, speculation and the creation and distribution of wealth and income, just as in the past.

The reduction or elimination of Federal income taxes was a goal in previous capitalist heydays. But it was a personal preoccupation for Ronald Reagan, whose antipathy

toward income taxes dated back to his high-earning Hollywood days, when a top tax bracket of 91 percent in the 40's made it foolish to work beyond a certain point. Under him, the top personal tax bracket would drop from 70 percent to 28 percent in only seven years. For the first time since the era of Franklin D. Roosevelt, tax policy was fundamentally rearranging its class loyalties.

Reaganite theorists reminded the country that the Harding-Coolidge income-tax cuts—from a top rate of 73 percent in 1920 to 25 percent in 1925—helped create the boom of the 20's. Back then, just as in the 80's, the prime beneficiaries were the top 5 percent of Americans, people who rode the cutting edge of the new technology of autos, radios and the like, emerging service industries, including new practices like advertising and consumer finance, a booming stock market and unprecedented real-estate development. Disposable income soared for the rich, and with it, conspicuous consumption and financial speculation. After the 1929 crash and the advent of the New Deal, tax rates rose again; the top rate reached 79 percent by 1936 and 91 percent right after the war. In 1964, the rate fell in two stages, to 77 percent and then to 70 percent.

Under Reagan, Federal budget policy, like tax changes, became a factor in the realignment of wealth, especially after the 1981-82 recession sent the deficit soaring. The slack was made up by money borrowed at home and abroad at high cost. The first effect lay in who received more Government funds. Republican constituencies—military producers and installations, agribusiness, bondholders and the elderly—clearly benefited, while decreases in social programs hurt Democratic interests and constituencies: the poor, big cities, housing, education. Equally to the point, the huge payments of high-interest charges on the growing national debt enriched the wealthy, who bought the bonds that kept Government afloat.

Prosperous individuals and financial institutions were beneficiaries of Government policies in other ways. Starting in the Carter years, Congress began to deregulate the financial industry; but the leap came in the early 1980's, when deposit and loan interest ceilings were removed. To attract deposits, financial institutions raised their interest rates, which rose and even exceeded record postwar levels. The small saver profited, but the much larger gain, predictably, went to the wealthy. (The benefits of high interest were intensified, of course, by the declining maximum tax rate on dividend and interest income. The explosion of after-tax unearned income for the top 1 percent of Americans was just that—an explosion.)

The savings and loan crisis now weighing on American taxpayers also had roots in deregulation. Before 1982, savings and loan associations were required to place almost all their loans in home mortgages, a relatively safe and stable class of assets. But in 1982, after soaring interest rates turned millions of low-interest mortgages into undesirable assets, a new law allowed savings and loans to invest their funds more freely—100 percent in commercial real-estate ventures if they so desired. Like banks in the 1920's, many thrifts proceeded to gamble with their deposits, and by 1988, many had lost. Gamblers and speculators enriched themselves even as they stuck other Americans with the tab.

Reagan's permissiveness toward mergers, antitrust enforcement and new forms of speculative finance was likewise typical of Republican go-go conservatism. Unnerving parallels were made between the Wall Street raiders of the 1980's—Ivan Boesky and T. Boone Pickens—and the takeover pools of the 1920's, when high-powered operators would combine to "boom" a particular stock. For a small group of Americans at the top, the pickings were enormous.

An egregious misperception of late 20th-century politics is to associate only Democrats with extremes of public debt. Before 1933, conservatives—Federalists, Whigs and Republicans alike—sponsored Government indebtedness and used high-interest payments to redistribute wealth upward.

In addition, Republican eras were noted for a huge expansion of private debt. In the 1920's, individual, consumer and corporate debt kept setting record levels, aided by new techniques like installment purchases and margin debt for purchasing securities. In the kindred 80's, total private and public debt grew from $4.2 trillion to more than $10 trillion. And just as they had 60 years earlier, new varieties of debt became an art form.

Government fiscal strategies were equally loose. In part to avoid the deficit-reduction mandates of the Gramm-Rudman-Hollings Act, they allowed Federal credit programs, including student and housing loans, to balloon from $300 billion in 1984 to $500 billion in 1989.

In contrast to previous capitalist blowouts, the fast-and-loose Federal debt strategies of the 80's did not simply rearrange assets within the country but served to transfer large amounts of the nation's wealth overseas as well. America's share of global wealth expanded in the Gilded Age and again in the 1920's. The late 1980's, however, marked a significant downward movement: one calculation, by the Japanese newspaper Nihon Keizai Shimbun, had Japan overtaking the United States, with estimated comparative assets of $43.7 trillion in 1987 for Japan, versus $36.2 trillion for the United States.

The United States was losing relative purchasing power on a grand scale. There might be more wealthy Americans than ever before, but foreigners commanded greater resources. On the 1989 Forbes list of the world's billionaires, the top 12, with the exception of one American, were all foreigners—from Japan, Europe, Canada and South Korea. Dollar millionaries, once the envy of the world, were becoming an outdated elite.

This shift partly reflected the ebb of American's postwar pre-eminence. Yet the same Reagan policies that moved riches internally also accelerated the shift of world wealth, beginning with the budget deficits of the early 1980's but intensifying after the ensuing devaluation of the dollar from 1985 to 1986.

If the devalued dollar made the Japanese, French and Germans relatively richer, it also increased their purchasing power in the United States, turning the country into a bargain basement for overseas buyers. This is the explanation for the surging foreign acquisition of properties from Fortune 500 companies to Rockefeller Center in Manhattan and large share of the office buildings in downtown Los Angeles.

The dollar's decline also pushed per capita gross national product and comparative wages in the United States below those of a number of Western European nations. The economist Lester C. Thurow summed up the predicament: "When it comes to wealth, we can argue about domestic purchasing power. But, in terms of international purchasing power, the United States is now only the ninth wealthiest country in the world in terms of per capita G.N.P. We have been surpassed by Austria, Switzerland, the Netherlands, West Germany, Denmark, Sweden, Norway and Japan."

Not everyone looked askance at foreign wealth and investment. American cities and states welcomed it. From the textile towns of South Carolina to the rolling hills of Ohio, foreigners were helping declining regions to reverse their fate. Yet as Warren Buffett, the investor, said: "We are much like a wealthy family that annually sells acreage so that it can sustain a life style unwarranted by its current output. Until the plantation is gone, it's all pleasure and no pain. In the end, however, the family will have traded the life of an owner for the life of a tenant farmer."

Nowhere was Japanese investment more obvious than in Hawaii, where real-estate moguls from Tokyo pronounced the property they were grabbing up "almost free." An economist at a Hawaiian bank warned that the state was "a kind of test lab for what's facing the whole country." Indeed, in 1988 broader foreign ambitions were apparent. The author Daniel Burstein quoted Masaaki Kurokawa, the head of Japan's Nomura Securities International, who raised with American dinner guests the possibility of turning California into a joint U.S.-Japanese economic community.

Public concern over America's international weakness had been a factor in Ronald Reagan's election back in 1980. Voters had wanted a more aggressive leader than Jimmy Carter. For various reasons, the great things promised were not delivered. Reagan could re-create a sense of military prowess with his attacks on Grenada and Libya. But in the global economy he took a country that had been the world's biggest creditor in 1980 and turned it into the world's largest debtor. Despite opinion polls documenting public concern about this erosion, surprisingly little was made of the issue in the 1988 Presidential campaign, possibly because the Democrats could not develop a coherent domestic and international alternative.

Much of the new emphasis in the 1980's on tax reduction and the aggressive accumulation of wealth reflected the Republican Party's long record of support for unabashed capitalism. It was no fluke that three important Republican supremacies coincided with and helped generate the Gilded Age, the Roaring Twenties and the Reagan-Bush years.

Part of the reason survival-of-the-fittest periods are so relentless, however, rests on the performance of the Democrats as history's second-most enthusiastic capitalist party. They do not interfere with capitalist momentum, but wait for excesses and the inevitable popular reaction.

In the United States, elections arguably play a more important cultural and economic role than in other reditary aristocracy or Establishment, our leadership elities and the alignment of wealth are more the product of political cycles then they are elsewhere. Capitalism is maneuvered more easily in the United States, pushed in new regional and sectoral directions. As a result, the genius of American politics—failing only in the Civil War—has been to manage through ballot boxes the problems that less-fluid societies resolve with barricades and with party structures geared to class warfare.

Because we are mobile society, Americans tolerate one of the largest disparties in the industrial world between top and bottom incomes, as people from the middle move to the top, and vice versa. Opportunity has counted more than equality.

But if circulating elites are a reality, electoral politics is an important traffic controller. From the time of Thomas Jefferson, the nation has undulated in 28- to 36-year waves as each watershed election puts a new dominant region, culture, ideology or economic interest (or combination) into the White House, changing the country's direction. But after a decade or two, the new forces lose touch with the public, excessively empower their own elities and become a target for a new round of populist reform. Only the United States among major nations reveals such recurrent electoral behavior over two centuries.

The Republicans rode such a wave into office in 1968, as a middle-class, anti-elite correction, successfully squelching the social permissiveness and disorder of the 60's. Significantly, each Republican coalition—from Lincoln's to Nixon's—began by emphasizing national themes and unity symbols, while subordinating commercial and financial interests.

But it is the second stage—dynamic capitalism, market economics and the concentration of wealth—that the Republican Party is all about. When Republicans are in power long enough, they ultimately find themselves embracing limited government, less regulation of business, reduced taxation, disinflation and high real interest rates. During American's first two centuries, these policies shaped the three periods that would incubate the biggest growth of American millionaires (or, by the 1980's, billionairies). History suggests that it takes a decade or more for the Republican Party to shift from broad middle-class nationalism into capitalist overdrive, and the lapse of 12 years between the first Nixon inauguration in 1969 and the first Reagan inauguration repeats this transformation.

Nixon, like the previous Republican nationalist Presidents Abraham Lincoln and William McKinley, was altogether middle class, as was his "new majority" Republicanism. He had no interest in unbridled capitalism during his 1969-74 Presidency.

In fact, many of the new adherents recruited for the Republican coalition in 1968 and 1972 were wooed with the party's populist attacks on inflation, big government, social engineering and the Liberal Establishment. Many Republican voters of that era embraced outsider and anti-elite values, and like similar participants in previous Republican national coalitions, they would become uneasy in the 1980's as Reagan or Bush Republicanism embraced Beverly Hills or Yale culture and the economics of leveraged buyouts, not of Main Street.

Besides this uneasiness, reflected in opinion polls, a second sign that a conservative cycle is moving toward its climax has been the extent to which Democratic politics has been cooperative: when wealth is in fashion, Democrats go along. The solitary Democratic President of the Gilded Age, Grover Cleveland, was a conservative with close Wall Street connections. In the 20's, the Democratic Presidential nominees in both 1920 (James Cox, an Ohio publisher) and 1924 (John W. Davis, a corporate lawyer) were in the Cleveland mold. Alfred E. Smith, who ran in 1928, would eventually oppose Roosevelt and the New Deal. In the 20's, Congressional Democrats competed with Republicans to cut upper-bracket and corporate taxes.

Fifty years later, Jimmy Carter, the only Democratic President to interrupt the long Republican hegemony after 1968, was accused by the * * * of an "eccentric effort to carry the Democratic Party back to Grover Cleveland." Despite his support for substantial new Federal regulation, Carter clearly deviated from his party's larger post-New Deal norm. He built foundations that would become conservative architecture under Reagan: economic deregulation; capital-gains tax reduction and the tight-money policies of the Federal Reserve. (The Fed's chairman, Paul A. Volcker, was a Carter appointee.) Congressional Democrats even echoed their policies of the 1920's by colluding in the bipartisan tax-bracket changes of 1981 and 1986.

Thus, the Democrats could hardly criticize Reagan's tax reductions for the most part, they laid little groundwork for an election-year critique in 1988, leaving the issue to Jesse Jackson, whose appeal was limited by his race and third-world rhetoric, and to noncandidates like Mario M. Cuomo. Michael S. Dukakis was obviously uncomfortable with populist politics. Though several consultants and economists urged him to pick up the theme of economic inequality, Dukakis made competence, not ideology, his initial campaign issue. Only in late October, with his campaign crumbling, did the Democratic candidate reluctantly convert to a more traditional party line. It came too late.

Republican strategists could hardly believe their luck. Said Lee Atwater, Bush's campaign manager, after the election: "The way to win a Presidential race against the Republicans is to develop the class-warfare issue, as Dukakis did at the end—to divide up the haves and have-nots and to try to reinvigorate the New Deal coalition and to attack."

On the surface, this was a missed Democratic opportunity. But the lesson of history is that the party of Cleveland, Carter and Dukakis has rarely rushed its anti-elite corrective role. There would be no rush again in 1988—nor, indeed, in 1989.

Early in his presidency, George Bush replaced the Coolidge portrait hung by Ronald Reagan in the White House with one of Theodore Roosevelt, reflecting Bush's belief in T.R.'s commitment to conservation, patrician reform and somewhat greater regulatory involvement.

Yet there has not been too much evidence of a kinder, gentler America beyond softer, more conciliatory rhetoric. The budget remained unkind to any major expansion of domestic programs, and Bush's main tax objective was a reduction in the capital gains rate, a shift that critics said would continue to concentrate benefits among the top 1 percent of Americans.

By spring 1990, Washington politicians confronted the most serious debt- and credit-related problems since the bank failures, collapse stock prices, farm foreclosures and European war debt defaults of the Great Depression. From the savings and loan associations bailout to junk bonds, from soaring bankruptcies and shaky real-estate markets to Japanese influence in the bond market, Federal policy makers were forced to realize that a crucial task—and peril—of the 1990's would involve cleaning up after the previous decade's credit-card parties and speculative distortions.

In May, the facade of successful deficit reduciton crumbled as Administration officials confessed that bailing out insolvent savings and loans could cost as much as a half-trillion dollars. It became clear that taxes would have to rise. In California, where the anti-tax revolt began more than a decade ago, the approval by the state's voters earlier this month of an increase in the gasoline tax was seen by many as a sign of public willingness to come to grips with the fiscal deficiencies of the 1980's.

Even some Democrats who previously collaborated with Republican economics have begun to argue that the rich who had made so much money in the 80's should bear a larger share of the new burdens of the 90's. A number of Republicans share this disquiet. The Senate minority leader, Bob Dole of Russell, Kan., insisted in late 1989 that if the White House wanted to cut capital-gains taxes for the prosperous, it should also raise the minimum wage for the poor. Last month, the House Republican leader, Robert H. Michel of Peoria, Ill., was reported to favor an increase in the tax rate for the top 1 percent of Americans, from 28 percent to 33 percent. The second-ranking Republican leader in the House, Newt Gingrich of Georgia, suggested in April that conservatives, too, had to develop some ideas for economic redistribution.

Meanwhile, opinion poll after opinion poll has shown lopsided voter support for raising the income-tax rate for people making more than $80,000, $100,000 or $200,000. The 1990's seem ready to reflect a new anti-Wall Street, anticorporate and antigreed outlook set forth in books (and coming movies) like "Bonfire of the Vanities," "Liar's Poker" and "Barbarians at the Gate."

Nor was the changing mood apparent only in the United States. Kindred psychologies and political analyses could also be seen in other countries like Britain, Japan and Canada, where 1980's financial and real-estate booms likewise concentrated wealth in the hands of the very rich and increased economic inequity. A headline last month in the Financial Times of London could have been written in the United States: "The Rich Get Nervous."

Whether the populist reactions that followed past boom periods reccur in the 90's no one can know. But there could be no doubt that the last decade ended as it had begun: With a rising imperative for a new political and economic philosophy, and growing odds that the 1990's will be a very different chapter than the 1980's in the annals of American wealth and power.

TRIBUTE TO LT. GEN. WILLIAM SHERIDAN FLYNN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to William Sheridan Flynn, Lieutenant General Commander, 21st Theater Army Area Command, of Newport, RI.

General Flynn is the guest of honor at a reception held by the Colonel commanding, officers and men of the artillery company of Newport. For his years of exemplary service and accomplishments, General Flynn is being named as an honorary colonel.

General Flynn has faithfully served our Nation both at home and abroad. Among his key assignments are logistics staff officer,

U.S. Military Assistance Command, Vietnam; executive officer for both the Division Support Command and the 2d Brigade of the 8th Infantry Division, and command of the 708th Maintenance Battalion, 8th Infantry Division, in Germany. He is a graduate of the Industrial College of the Armed Forces, and the Naval School of Command and Staff. He has shared his success with his wife Lynn and their 5 children.

I would like to thank General Flynn for his years of dedicated and loyal service. I take this opportunity to congratuate General Flynn for his accomplishments and wish him continued success in the future.

INTRODUCTION OF BILL TO ALLOW A LAND SWAP BETWEEN THE STATE OF WEST VIRGINIA AND THE SUN LUMBER CO.

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STAGGERS. Mr. Speaker, I rise to introduce legislation that would allow the U.S. Government to release a condition in the deed that conveyed land to West Virginia in 1954. This release would allow the State of West Virginia to swap lands in and around Holly River State Park so that the State may acquire some private property currently within its overall boundary. If this legislation is approved the State will also acquire a scenic area currently outside of the park boundary.

Holly River State Park was created by the State of West Virginia after the Federal Government deeded 7,592 acres of land along the Holly River for the development of recreational opportunities for the citizens of West Virginia and the visiting public. The land was not self-enclosed and had a number of interior holdings which were owned by other private owners, the largest of whom was the Sun Lumber Co. State officials have told me that since 1961 they have attempted to negotiate with the Sun Lumber Co., in an attempt to gain the interior holding that Sun owned and trade off property out of the Holly River watershed thereby enhancing the beauty and utility of the park.

Several years ago the State renewed its interest in swapping properties. The Sun Lumber Co. seemed receptive and what seems to be a fair and reasonable exchange of lands has been proposed. Appraisals have been conducted and my office has, over the past 2 years, conducted two separate public hearings in the community to gauge the value of the land swap and to see if this swap would enhance the beauty and utility of what undoubtedly is one of the best kept secrets in West Virginia's outstanding State park system. Holly River is beautiful and I believe that the proposed swap will enhance the marketing of the park and allow a greater number of vistors to enjoy the park. This legislation will allow an area, currently outside of the boundary of the park, called the Chute to be included in the new park boundary.

The Chute is located along the Holly River where a natural cut through the rocks have caused a beautiful chute of water to enter the Holly River. This area is one of the most photographed and pictures of this area have been displayed at art shows and have been published in the State's official publications. It is a unique site and one that I believe demands out attempts to save it unscathed from development or commercial distraction.

Holly River State Park currently has a full-time office as well as a number of cabins and camping sites. It is a large park and lends itself to the vacationer who wishes to take a trip that keeps him away from modern distractions and allows him an opportunity to see large tracts of undisturbed lands. It is my hope that if this legislation is approved that the State, would, with its more secure interior holdings, seek to improve the park and allow greater numbers of visitors to take advantage of this treasure.

The land for the park was originally deeded to the State through the U.S. Forest Service and held a reverter clause. That is the reason that this legislation is necessary. Although the intent the land was given for in 1954 will not be changed, there will be some adjustments made in the physical description of the property if this legislation is approved.

I have taken this action after being requested to do so for the more than 3 years by members of the present and past administrations in West Virginia. This legislation is supported by the State department of natural resources, the State department of commerce and West Virginia's Governor.

Upon a long and careful review I believe that the proposed land swap is in the best interests of the people of Webster and neighboring Upshur County, the State of West Virginia and the generations of future visitors who will be able to enjoy a substantially improved State park as a result of this legislation.

A TRIBUTE TO RAYMOND AND JEAN TERWILLEGAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of honoring Mr. and Mrs. Raymond Terwillegar on the occasion of their induction into the Michigan Farmer's Hall of Fame. Founded in 1982, the Michigan Farmer's Hall of Fame exists to honor farmers for their contributions to their community and to Michigan's agricultural industry. The Terwillegars are one of seven families who will be inducted into the Michgian Farmer's Hall of Fame during a ceremony that will be held on August 31, 1990.

Raymond served in the Army during World War II. After his discharge, Raymond worked for a year at Dow Corning before deciding to begin a career in farming. Starting out with six cows and used machinery, the Terwillegar's dairy herd grew in size and eventually they were able to purchase additional land. At one point during their farming career, the Terwillegars farmed 3,600 acres of land. They sold their dairy herd in 1975, but continued cash crop farming.

Selected as the first outstanding farmer of Midland County, Raymond has always attended workshops and seminars to improve his farming skills and expand his knowledge of agriculture. In addition, Raymond has been the director of the Hemlock Coop Elevator and of the Comerica Bank of Midland. He was township trustee for 5 years and has been township treasurer since 1971.

Jean and Raymond have worked and supported each other in their life together on the farm. The Terwillegars have 6 boys, and 3 girls. Jean is a member, as well as secretary/treasurer, of the Midland Association of Extension Homemakers. She has experienced all the joys of raising nine children including sewing, chaperoning, driving, cooking, and attending 4-H and little league meetings.

The Tewillegars, who are from Midland, MI, have been farming for 50 years. They are now farming in partnership with five of their sons who will carry on the legacy of hard work and the tradition of Michigan agriculture Raymond and Jean began 50 years ago.

Mr. Speaker, and my colleagues in the House, join me today in honoring Raymond and Jean Terwillegar, and in celebrating their life of contribution to their community and to Michigan agriculture. The Terwillegars have set a standard of hard work and dedication for all of Mighican to look torward.

HONORING BETH TFILOH CONGREGATION

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CARDIN. Mr. Speaker, I rise today to recognize the service of Beth Tfiloh congregation on behalf of the Baltimore Jewish community and the State of Israel. At a special tribute ceremony service on September 11, Beth Tfiloh is honoring men and women who have served in the highest echelons of the Maryland Committee for State of Israel Bonds and the women's division for Israel bonds.

During September 1990, Beth Tfiloh will celebrate the 40th anniversary of the founding of the State of Israel bond program in Jerusalem. On this anniversary, Beth Tfiloh and its Israel Bond Committee will give special recognition to Arnold G. Cohen, Haron Dahan, Richard Rynd, Daniel Schapiro, Ben Schuster, Marvin H. Weiner, Rachel Dahan, Micki Naiditch, Selma Rynd and Jeannette Schapiro. I congratulate them on their tremendous commitment to the State of Israel bond program and am pleased that Beth Tfiloh is hosting this tribute dinner in their honor.

A SPECIAL TRIBUTE TO WILLIAM N. BELL

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the U.S. House of Representatives to

honor and pay very special tribute to William N. Bell of Apollo, PA, who is the 89th Illustrious Patentate of Syria Temple in the Syria Mosque, one of the largest shrine temples in North America with 15,000-plus Nobles.

A 1948 graduate of Vandergrift High School, Illustrious Potentate Bell is a prominent businessman who has owned and operated an auto repair, tire dealership, and auto parts outlet in Vandergrift, PA, for the past 27 years.

He began his business career upon his release from active duty as a captain in the U.S. Army following the Berlin crisis, having served in the military during the period 1952 to 1954, being commissioned in 1953. As a member of the U.S. Army Reserve from 1955 to 1965 he was again called to active duty from 1961 to 1962. He is currently a member of Vandergrift American Legion Post 114.

Noble Bell and his family belong to the First Methodist Church in Vandergrift where he served on the administrative board. Among his community affiliations, he is honorary member of the George G. McNurty Fire Department and a member of the Western Pennsylvania Firemen's Association and a member of the Apollo Elks Lodge No. 386.

Mr. Bell has been a member of the Syria Temple for 25 years and has served the temple in a variety of positions. A member of the Syria Improvement Association for 6 years, he served as president for 3 years. He was chairman of the hospital crusade in 1986 and the assistant chairman for 1984. He also served as an aide to the potentate from 1973 to 1983. He is a former member of the drum and bugle corps. He is also past rabban of Hillbilly Clan No. 53; past president and member of V.A.L. Caravan 13; member of Caravan 16, Caravan 22, and the past president of the Syria Toy Committee; a member of the Legion of Honor and a past deputy for Northern Westmoreland County. Noble Bell also served as the 1989 chairman of the endowments, wills and gifts committee and the Hundred Million Dollar Club.

Brother Bell's masonic affiliation includes membership in Apollo Lodge, 437, F.&A.M., and the Scottish Rite Valley of Pittsburgh A.A.S.R., where he is active in several degrees. He has served on the Demolay Advisory Council (Kiski Valley Chapter) and has served 17 years as drill team director for the Order of Rainbow for Girls where he received the Grand Cross of Colour in 1986.

Noble Bell is widely known for his active participation in the Syria Temple Harige Unit, Middle Atlantic Shrine Clown Association. His award winning clown character of "Ding Dong Bell" and his four-legged friend "Gertrude," the donkey, have brought delight to many throughout the years.

The newly installed potentate is married to Rose C. Bell and the Bells are the parents of three sons and a daughter.

Beside her duties as the first lady of Syria Temple she is assistant head nurse with Allegheny Valley Hospital and a member of the Apollo Chapter 125 of the Order of the Eastern Star, as well as a past mother adviser of Rainbow Assembly 105.

Mr. Speaker, because Mr. William N. Bell is an outstanding member of his community, but most especially because of his dedicated and selfless public service—and the public service of his wife and family—I rise today before the full U.S. Congress to inform my colleagues of this fine American who deserves our high praise and tribute.

THE ORPHAN DRUG WINDFALL PROFITS TAX

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STARK. Mr. Speaker, on May 8, 1990 Inspector General Kusserow released a draft of his report on the effect of the interim payment rate for the orphan drug EPO on Medicare expenditures and dialysis facility operations.

In this report, the OIG was so disturbed at the excessive profitmaking over EPO that he recommended eliminating the market exclusivity provision of the Orphan Drug Act altogether. Furthermore, in testimony before the House Ways and Means Subcommittee on Health, an OIG official stated that the original estimate of annual cost for EPO to Medicare of $100 million had to be revised to $265 million due to a higher than expected market penetration. OIG stated that the market penetration in the first year was about 50 percent as opposed to the initial estimate of 20 percent.

Since its passage, the Orphan Drug Act has encouraged the development of over 40 drugs to treat rare diseases, and the market exclusivity provision is the most important incentive of the act. For these reasons, I do not support elimination of this key provision. However, I support the essence of the inspector general's report, in that I believe legislative measures should be taken to prevent the exploitation of the provisions of the act by companies who are producing highly profitable drugs. The Orphan Drug Act was not designed to create a protected market for drugs that are highly profitable.

The Orphan Drug Act was intended to encourage the development of drugs for rare diseases; drugs that would normally be unprofitable. Because companies such as Amgen are reaping windfall profits off the act's provisions, and because other companies may not be aware of just how profitable their drugs will be at the time of orphan designation, I believe that legislation is needed that will work in hindsight to recapture Federal subsidies that go to companies who later make excessive profits off of the provisions of the act. That is why I introduced the orphan drug windfall profits tax on July 31, H.R. 5421, as an amendment to the Orphan Drug Act.

By allowing a company to recover twice its development costs, along with a 25 percent rate of profit before the windfall tax is applied, my amendment still allows companies to make a very generous return on their investment. At the same time, it will allow the Federal Government to recapture its subsidization of the small handful of excessively profitable orphan drugs, such as EOP, while they are being protected by the seven-year market exclusivity provision of the act.

I feel strongly that my amendment will solve the problems that the inspector general refers to in his report, while still maintaining the effectiveness of the act.

REMINDING US OF DEFENSE NEEDS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GINGRICH. Mr. Speaker, I would like to call my colleagues' attention to an article by Harry Summers in today's Washington Times.

Americans must remember weakness invites war. For a year people have been talking about cutting American defense. Saddam Hussein believed them.

REMINDING US OF DEFENSE NEEDS

(By Harry Summers)

Events in the Persian Gulf last week underscored the fact that even though the Cold War may have ended, defending American interests abroad remains a most formidable task. On June 22, 1990, in what would prove to be an especially prescient address, Gen. Colin Powell, chairman of the Joint Chiefs of Staff, observed to his National Press Club audience that "In Iraq alone there are more tanks than Rommel had in his Afrika Korps. More than that, (with some 5,500 main battle tanks) Iraq has more tanks than Rommel, Montgomery and Eisenhower combined had during the North African campaign.

"So even as we reduce, we must maintain the ability to deter and defend," Gen. Powell warned. "We must maintain the ability here in the continental United States to reinforce rapidly [with] heavy active forces, trained and equipped to deal with the modern heavy conventional capability that will still be possessed by the Soviet Union and other similarly equipped nations. It also means that we must invest in strategic air and sea lift to get us to the point of crisis should it be necessary to go there."

Less than a month later, Gen. Powell's words became reality, as Iraq massed two armored divisions on its border with Kuwait to coerce that country, and other oil-producing nations in the region as well, to follow the Iraqi lead in curtailing output of the Organization of Petroleum Exporting Countries and thus drive up the price of oil.

It was a direct challenge to American interests.

So what did we do about it? We sent two aerial refueling tankers to the region, and announced a short-notice joint naval exercise with the naval forces of Kuwait's neighboring United Arab Emirates.

"Bush administration officials said the moves were intended as a demonstration of support for the two small gulf states," reported the July 25, 1990, New York Times, "and as a signal to Iraq that Washington was prepared to use military force to defend the flow of oil through the Straits of Hormuz."

But the Straits of Hormuz were not the issue. It was, rather, the continued existence of Kuwait as an independent nation, an existence threatened by all the Iraqi armor poised on its border. And to counter that threat, the American air and sea response was pitifully inadequate. Heavy land forces, as Gen. Powell had prophesied, were

what was needed. But America's heavy strategic reinforcement units, such as the 2nd Armored Division at Fort Hood, Texas, were disbanding, not deploying. The result was Kuwait's submission to the Iraqi demand for a price fix. But that might not be the worst of it.

"The danger," noted the British journal the Economist, "is that, having discovered the weakness all around him, [Iraq's President Saddam Hussein] will decide he is pushing at an open door."

That is a very real danger, for, left to its own devices, the Arabian Peninsula is indeed an open door. Betweeen them, the Gulf Cooperation Council—Kuwait, the United Arab Emirates, Bahrain, Qatar, Oman, and Saudi Arabia—do not begin to have the combat power to stand up to Iraq's million-man force.

Battle-hardened in its long war with Iran, Iraq not only has all those tanks, it also has a chemical warfare capability that it has shown no hesitancy in using, and there is a distinct possibility that it will have nuclear weapons in the future. All this makes real the Iraqi military threat to the Arabian peninsula. And so is its threat to American access to Mid-east oil.

But despite Gen. Powell's prescription for a "national security insurance premium" to counter that threat, our capability is getting progressively weaker. Instead of developing strategic sea and air lift capable of transporting heavy forces into position, military planners, with Procrustean logic, have instead opted to cut the heavy force to fit the available strategic lift.

This is a recipe for disaster on a far larger scale than their earlier mutilation of the infantry squad, which was cut from 11 men to nine so that the squad—combat capability be damned—could fit into the so-called Bradley fighting vehicle.

In a world where some 30 nations have more than 1,000 main battle tanks, reliance on a primarily light military force on the grounds that it can be rapidly deployed is strategic madness. The rapidity of its deployment would only be exceeded by the rapidity of its destruction.

We found that out almost 30 years ago in "Desert Strike," a major training exercise in central Texas where two airborne divisions were deployed against the 2nd Armored Division. The result was a rout, with the tanks rapidly running the hapless paratroopers into the ground. It is a scenario that would be tragically repeated if U.S. light military forces were deployed in the face of Iraqi armored divisions.

How to bring our heavy forces to bear is a major strategic challenge. "This is still a dangerous world," Gen. Powell said, "and you had better be able to respond if someone challenges your interests." This time we'll pay at the gas pumps for our inability to respond. Before we find what the price will be next time, we'd better get our military house in order.

VA COMPUTER SYSTEM A MODEL FOR OTHERS WORLDWIDE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MONTGOMERY. Mr. Speaker, VA doctors, nurses and other health care providers had to fight for it. The Office of Management and Budget [OMB] and some top VA officials didn't want it and chose instead to push for more costly and less practical systems from private vendors. Their erroneous assumption was that no Federal agency could possibly develop its own tools.

It is the state-of-the-art decentralized hospital computer system [DHCP] developed by VA health care professionals for the VA health care system, the Nation's largest, and it has captured the attention and the admiration of health care delivery systems across the country and around the world.

Mr. Speaker, I believe we should congratulate VA employees for taking the initiative, for developing and implementing their own successful computer software, and for saving the taxpayers millions of dollars in the process. This single project, arguably more than any other, demonstrates the concern and dedication of our VA health care staff when it comes to providing the best possible care to our veterans. Further, they are providing this technology, virtually free of charge, to States which are attempting to automate their health care records.

I would like to share with my colleagues the following article from the July issue of U.S. Medicine in which Washington State officials explain why they chose VA's DHCP:

[From U.S. Medicine, July 1990]

WASHINGTON STATE TURNS TO DHCP

OLYMPIA, WASH.—The state of Washington is casting its lot with computer software applications developed in the Department of Veterans Affairs as the most flexible and inexpensive way to automate state-run institutions.

While examining systems available commercially, a task force found its interest piqued by the Defense Department's 1988 award of a contract for the Composite Health Care System (CHCS). Since DoD's system was to be based on software from the VA, the task force then turned to the VA—and liked what it found, Michael J. Buckley, governor's executive fellow in the Department of Social and Health Services related.

"We were pretty disappointed in what we found was available off the shelf," Buckley, who directs the data automation effort, said.

The task force was further intrigued, he said, by the fact that there was "demonstrated interest" in the VA's Decentralized Hospital Computer Program (DHCP) outside the United States. For example, he noted, the Chinese government has expressed interest in adopting part of the software. In addition, the VA Kernel and the MUMPS language in which it is written are used in Japan, Scandinavia, Britain and West Germany.

"There's a lot of international interest in the system," he said.

What's more, Buckley noted, "the software is free of charge to state and local governments. That's a very good price!"

The Washington state project began by attempting to automate one hospital, Buckley related, and then escalated into a multi-institutional effort under the mental health division—and then into a multi-divisional one.

Buckley said there are four institutions in the mental health division, ranging from a 60-client child treatment center to a 1,200-bed adult psychiatric hospital with a 200-bed medical hospital "embedded in it."

In addition, about another dozen institutions involving the treatment of developmental disabilities and of juvenile criminals are involved in the data automation project.

The task force, in looking at systems to fit such a variety of facilities, found that most clinical functionality in hospital information systems is "just smoke and mirrors," Buckley said. "We looked at about 143 vendors; the few systems that bordered on what we wanted were generally tied to a single vendor's processors."

But those processors weren't what the state wanted to buy or could afford, he said.

The task force decided that having an "open system" was essential, Buckley related. "We really wanted something that will run on microprocessors—a fully functional clinical information system that was integrated, with a common patient data base, that would also run on microcomputers. The DHCP will run on microprocessors.

"The funny thing is vendors were telling us that was impossible."

The task force was impressed, he said, by the fact that the DHCP operates in 169 VA hospitals, is used by the Indian Health Service, and had become the model for the Defense Department.

"What it came down to was number one, clinical functionality, and number two, cost-effective hardware and vendor independence. And the third thing, cheap.

"You can find the most fully functional system in the world, but it doesn't do you any good if you can afford it," Buckley observed.

The task force, he said, was given $40,000 to do a five-month pilot project—"hardware, software modifications, consultants, etc."

"I think everybody kind of expected us to fail," he confided.

"Well, we ended up doing everyting we said we were going to, and then some. It took us a couple of hours to modify VA software to fit state needs.

"This was just the ADT system, and some ancillary stuff, but that's electronic mail. Hardware, software, consulting fees, the whole nine yards—we spent about $20,000.

"We were not only under budget, but we were ahead of schedule all the way. This is almost unheard of in informations system development," he observed.

Buckley estimated that using the VA software will allow state facilities in Washington to automate at one-tenth the cost of using commercial systems or of building one from scratch.

"The normal dichotomy is that you buy or you build. In a sense we're building, but we're building on a baseline," he said. "The baseline is going to save our state, very conservatively, about $5 to $6 million.

"We can do basic automation in our state institutions for under $1 million—that's hardware and software. And that's unheard of."

Buckley said he has been working with other states that have expressed interest in the VA software: Florida, Texas, Ohio.

"The taxpayers have already shelled out millions of dollars to help create this system, and a lot of very creative employees of the VA have helped design it and make it work. To me it would be a crime not to propagate that system, where it's appropriate," he said.

In a paper prepared for the Association for Computing Machinery's September conference on Computers and Quality of Life Buckley outlined the problem facing state

governments: "State and local government-run hospitals and institutions for the mentally ill and the developmentally disabled largely have been left out of the 'information revolution' of the 1980s."

The VA software, he wrote, offers a way for such institutions to join in the revolution—at a price they can afford. "Not only is this software available to state and local governments virtually free of charge, but it offers a host of advantages over most other alternatives: hardware and vendor independence, adaptability to a wide variety of settings, support for clinical as well as administrative and financial functions, conformity to current and emerging standards, etc."

Looking to the future, Buckley wrote, there are additional advantages "inherent" in using VA's software. "For example, the VA is already pursuing automated data exchange between JCAHO, HCFA and other accrediting/certifying bodies and individual institutions. Eventually, other DHCP users will be able to take advantage of such linkages."

What's more, he said, the federal adoption of MUMPS, the language in which the VA software is written, as a procurement standard means that the DHCP and systems based on it will play a central role in development of the automated clinical record currently being pursued by the Institute of Medicine and by other healthcare organizations and national standards bodies.

TRIBUTE TO GEORGE GRABOYS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mr. George Graboys, president and CEO of Citizens Financial Group, Inc. Mr. Graboys will be presented with the Torch of Liberty Award from the Anti-Defamation League.

This prestigious award was given to Mr. Graboys due to his ability to meet the challenges inherent in achieving significant professional success while maintaining a strong commitment to public service.

Mr. Graboys has shown Rhode Island how a person can use their own talent and vision in moving toward the creation of a more equitable society. Mr. Graboys has been a leader in Rhode Island. His current civic activities include serving as a member of the board of governors for higher education in Rhode Island, and as a director of the Miriam Hospital, the Rhode Island Urban Project, the International Institute of Rhode Island, and the National Conference of Christians and Jews. He has recently served as a national director of the U.S. Chamber of Commerce. In 1984 he was designated by the International Institute as Citizens of the Year, and in 1988 he was named Business Person of the Year by the New England Business magazine.

Mr. George Graboys is the kind of person and leader that our Nation needs. He has surely recognized that the purpose of one's life is not found in the size of his paycheck, but in the legacy that is left of community spirit and working toward a better understanding and love of mankind. He is a role model that is worthy of recognition. He has reached the quintessential balance of commitment to excellence in business, contribution to community and love of family. I would like to congratulate not only Mr. Graboys, but his family as well: his wife Lois, and his three grown children, Kenneth, Angela, and James.

It is with great pleasure that I salute Mr. George Graboys for his outstanding achievements. I wish him continued success in the future.

MESICK, MICHIGAN'S CENTENNIAL YEAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I am honored today to congratulate the village of Mesick, MI, on the occasion of its centennial year. The Mesick Centennial Celebration, which will include a variety of events, will be held on August 9–12, 1990.

This is truly a reason for celebration. The people of Mesick represent the best qualities of the citizens of Michigan. They work hard, they take pride in their families, and they give of themselves to others who are less fortunate.

The village of Mesick is located in the northwestern part of Wexford County in the Springville Township of Michigan. The community is 250 miles square with a population of approximately 3,000.

Originally this area was covered with forests and was inhabited by Indians. With the Ministee River and a high range of hills, Briar Hill, located just to the south of Mesick, the village is ideally located for ice fishing, skiing, snowmobiling, hiking, fishing, boating, canoeing, camping, and hunting.

Originally drawn to the area for its rich hunting resources when a young man, Howard Mesick, with his wife Ellenor, founded Mesick when they received a land grant of 160 acres from the U.S. Government under the Homestead Act in 1873. In 1889 the Mesicks chose a piece of land, 1 mile square, to be the village of Mesick.

On February 17, 1890, the State of Michigan accepted the village of Mesick's survey and plat. The village was incorporated in 1901. The first village council meeting was held on December 14, 1901. The council included R.M. Harry, president; F.E. Rice, clerk; George Cooley, William Peasley, Frank Willey, Clarence Powell, E.C. Godfrey and a Mr. Hall, councilmen.

Mr. Speaker, join me today in congratulating the people of the village of Mesick on the centennial of its founding. They have made Michigan the great State that it is.

FINANCIAL DISCLOSURE FOR 1989

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year in which I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I continue to file this more detailed family financial report as I have since 1971. In this way, my constituents are kept fully and completely informed concerning my financial status and that of my family.

Romano L. and Helen D. Mazzoli income calendar year 1989

Interest, dividends, rents and distributions:	
American United Life Insurance Co., policy No. 16-11163212-0	$47.01
American United Life Insurance Co., policy No. 16-1011729-0	15.42
Congressional Federal Credit Union No. 62976	264.18
Congressional Federal Credit Union No. 84720	578.86
American United Life Insurance Co., proceeds of policy Nos. 16-1011729-0 and 16-1116312-0	1,997.85
Republic Bank & Trust Co., No. 20-556-7	70.69
Cumberland Federal Savings Bank No. 61-015549-9	11.02
Meritor Savings Bank No. 1433-01-674	77.91
Liberty National Bank & Trust No. 01-527329 (IRA)	1,613.89
Liberty National Bank & Trust No. 29-508132 (IRA)	914.75
Cumberland Federal Savings Bank No. 040156814 (IRA)	602.31
Liberty National Bank & Trust No. 010090063046	332.07
First National Bank No. 427-5518-4	104.00
Federal Employee Thrift Savings Plan (401K)	977.71
U.S. Treasury bills (Nos. 912794RE6; 912794RV8; 912794RX4; 912794SJ4; 912794SM7; 912794TD6	2,421.70)
939 Parkway Drive, Louisville, KY (rental property)	−3,174.00
Total: Interest, dividends, rent and distributions	6,855.37
Salaries and fees:	
U.S. House of Representatives (R.L. Mazzoli)	85,024.92
Alexandria Drafting Co. (Helen Mazzoli)	17,823.12
Vecta, Inc. (Helen Mazzoli)	2,112.00
Mt. Vernon Realty (Helen Mazzoli)	478.50
Total: Salaries and fees	105,438.54
Gross income	112,293.91

Romano L. and Helen D. Mazzoli statement of financial worth, December 31, 1989

Cash and certificates of deposit:	
Congressional Federal Credit Union, certificates of deposit	$5,569.25
Congressional Federal Credit Union No. 62976	1,674.23
Congressional Federal Credit Union No. 84720	5,841.25
Cumberland Federal Savings Bank No. 60-015549-9	247.16
Republic Bank & Trust Co., No. 20-556-7	1,734.31
Liberty National Bank & Trust No. 010090063046	5,206.02
First National Bank No. 427-5518-4	1,214.73
House of Representatives Sergeant At Arms No. 5348.	2,752.34
Total: Cash and certificates of deposit	24,239.29
Individual retirement accounts:	
Liberty National Bank & Trust No. 01-527329	17,894.75
Liberty National Bank & Trust No. 29-508132	12,118.71
First Nationwide Bank No. 0401564814	3,825.51
Total: Individual retirement accounts	33,838.97
Bonds and Treasury bills:	
U.S. Government bonds, series E	2,398.44
U.S. Treasury bill No. 912794TP9	10,000.00
U.S. Treasury bill No. 912794UB8	10,000.00
U.S. Treasury bill No. 912794UD4	10,000.00
Total: Bonds and Treasury bills	32,398.44
Real Property:	
939 Ardmore Drive, Louisville, KY (assessed value)	58,700.00
Less: Mortgage, the Cumberland S&L, No. 15970	4,018.31
Subtotal	54,681.69
1030 Anderson St., Alexandria, VA (assessed value)	187,400.00
Less: Mortgage, Cowger & Miller Co., No. 15184	37,717.17
Subtotal	149,682.83
929 Parkway Drive, Louisville, KY (assessed value)	44,660.00
Less: Mortgage, Ms. Brad Valla	35,105.85
Subtotal	9,554.15
Total: Real property	213,918.67
Federal Employees Retirement System (total contributions since 1971)	87,362.01
Federal Employee Thrift Savings Plan (401K)	14,669.59
Automobiles:	
1965 Rambler (assessed value)	200.00
1973 Chevrolet (assessed value)	1,310.00
1985 Chevrolet (assessed value)	4,314.00
Total: Automobiles	5,824.00

Romano L. and Helen D. Mazzoli statement of financial worth, December 31, 1989—Continued

Household goods and miscellaneous personal property	6,000.00
Liabilities	−493.00
Net assets	417,757.97

Romano L. and Helen D. Mazzoli, 1989 income tax recapitulation

Federal:	
Total income	$108,635
Deductions and exemptions	30,296
Taxable income	78,339
Taxes due	18,361
Taxes withheld	23,004
Refund	4,643
Kentucky:	
Tax withheld (and tax paid to other States)	4,186
Tax due	3,442
Refund	744
Virginia:	
Tax withheld	770
Tax due	308
Refund	462
Louisville and Jefferson County, KY: Tax due	492

TV MARTI: A COSTLY FAILURE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CROCKETT. Mr. Speaker, I rise to bring to my colleagues' attention the administration's report on the feasibility of TV Marti.

Although the report carefully avoids reaching the obvious conclusion dictated by its own data, the facts are clear: TV Marti is a costly failure.

I give you, Mr. Speaker, the report's own words:

The Government of Cuba has consistently and effectively jammed the TV Marti signal since broadcasts began.

The (U.S.) Interests Section concludes that there are a possible 50,000 to 70,000 individuals who could occasionally view TV Marti.

Mr. Speaker, this is 0.7 percent of Cuba's population.

Of 1,899 Cubans surveyed by our U.S. Interests Section, only seven said that they received TV Marti clearly.

In response to TV Marti, the Cubans have jammed the Radio Marti medium wave AM station, leaving us worse off than we were before.

These powerful Cuban counterbroadcasts on Radio Marti's frequency interfere with U.S. radio stations.

International and bilateral reaction to TV Marti has been restrained but generally unfavorable.

The International Frequency Registration Board (of the International Telecommunications Union) has objected to the across border broadcasts.

Mr. Speaker, there are more actions that the Cubans could take that they have so far refrained from taking. They could effectively wipe out TV Marti entirely by simply broadcasting reruns on the same channel at the same hours of the morning. They could retaliate by broadcasting a signal to the United States. We will probably face these actions if we try to put TV Marti into full operation.

The National Association of Broadcasters continues to oppose what it rightly calls: "This questionable Federal project." As the NAB points out in a recent letter to me: "The potential continues to exist for massive retaliatory interference from the Cubans, while our TV Marti signal is being easily jammed.

Mr. Speaker, the only thing TV Marti is feasbile for is buttressing the political fortunes of some of our colleagues. We should cut our losses and stop this costly failure.

I include the report and the NAB letter for the information of my colleagues:

REPORT TO CONGRESS ON TV MARTI TEST BROADCASTS TO CUBA

EXECUTIVE SUMMARY

TV Marti television broadcasts to Cuba, which began on March 27 and have continued generally between 0345 and 0645 (local time), have demonstrated that:

A clear and an excellent quality TV Marti signal reached Havana, Cuba, from its broadcast site at Cudjoe Key, Florida.

Foreign and domestic stations are not being subjected to any adjacent and co-channel interference from TV Marti.

The Government of Cuba has consistently and effectively jammed the TV Marti signal since broadcasts began.

There is widespread interest among Cubans in seeing TV Marti, notwithstanding its early morning broadcast hours and GOC jamming.

Although there is no effective way to overcome Cuban jamming, there are areas where jamming does not interfere with the TV Marti signal.

Because of the difficulty in obtaining reliable information about the reception of TV Marti, the actual size of the audience is unknown.

The Cubans have effectively prevented reception of the Radio Marti medium wave AM signal by counterbroadcasting on that frequency.

International and bilateral reaction to TV Marti has been restrained but generally unfavorable.

The International Frequency Registration Board has objected to the across border broadcasts, asking that the USG change the manner in which it operates TV Marti.

International telecommunications commitments of the USG have been observed throughout the TV Marti test period by transmitting TV Marti when no regular Cuban service is using the same channel.

TECHNICAL FEASIBILITY

Extensive testing, monitoring and observation has shown that the TV Marti antenna and transmission system has met all technical specifications and requirements put forth by the TV Marti Task Force, including National Telecommunication and Information Administration (NTIA) and the Federal Communication Commission (FCC). Essentially, these requirements include sending a grade A television signal into the city of Havana, while simultaneously protecting both foreign and domestic stations from adjacent and co-channel interference. Measurements taken during exhaustive testing over a three-week period to construct antenna patterns demonstrate that the antenna does meet these stringent requirements. Measurements and observations made in Havana prove that the signal transmitted from Cudjoe Key is of high quality and has been described as "clear and bright," prior to Cuban jamming. It can also be concluded that weather conditions will occasionally

(approximately 20 percent of broadcast time during the test period) cause TV Marti to be unavailable. Weather effects will vary according to season and time-of-day. Otherwise the TV Marti transmission system performs with high reliability.

NTIA AND FCC PERFORMANCE CRITERIA

In accordance with NTIA/FCC rules and regulations, the TV Marti Task Force developed an antenna specification to meet strict domestic protection requirements. The Channel 13 station in Tampa and Channel 12 station in West Palm Beach were specific areas of concern within the United States. In Cuba, protection was required for the Channel 13 station in Matanzas.

Despite widely held concerns that the desired protection might be unattainable, the prime contractor, the General Electric Company, and its antenna subcontractor, the Multitenna Corporation, delivered a system with the critical antenna component that provided for protection for both domestic and foreign stations.

To allay concerns about interference, extensive tests of the TV Marti antenna system were conducted in two phases. First, low power and low altitude tests at Cape Canaveral defined the antenna pattern and produced over 140 patterns. Analyses showed that the antenna performed in accordance with specifications and provides protection to domestic stations. The second phase of tests conducted at low altitude at the Cudjoe Key Air Force Station demonstrated full compliance with domestic and foreign protection requirements.

In addition to stringent performance criteria for the antenna, the system included several safeguards to ensure that domestic broadcasting would be protected if the antenna were to become misdirected. First, the servo/pointing mechanism is accurate to within +/− 0.5 degrees. An automatic shutdown circuit is activated if the main beam is off line by more than 0.5 degrees. Second, power output is set so as not to exceed the specified power limits. The entire system is controlled from the ground and the aerostat-mounted transmitter will not transmit without a signal provided by the ground station.

RESULTS OF MONITORING IN THE U.S.:

On March 27, 1990, TV Marti began its operational test. Several FCC and NTIA monitors were placed in southern Florida to cover the market areas of channels 12 and 13 to ensure that the conditions of the experimental license were met and that objectionable interference did not occur to other authorized TV stations. The NTIA report stated:

During the period of March 27 through 29, 1990, the NTIA measurement team while monitoring in the Tampa WTVT coverage area did not detect any signals from TV Marti on either the spectrum analyzer or on the TV set tuned to channel 13 that were used for monitoring during the initial turn-on period. Subsequent discussions with FCC personnel in the Tampa field office revealed that FCC's measurement team also did not detect any signals that were attributable to the test transmissions of TV Marti. Based on the results of monitoring during the trial operational period, NTIA concludes that TV Marti is operating in accordance with the design specifications and there is no indication that domestic TV viewers will be subjected to objectionable interference because of TV Marti's transmissions.

(NTIA and FCC reports are attached as addenda to this report.)

TV MARTI'S AUDIENCE IN CUBA:

Because of the difficulty in obtaining reliable information about the reception of TV Marti, the actual size of the audience is unknown. There have been several attempts to measure audience size, with diverse results. The US Interests Section personnel monitored the TV Marti broadcasts at the Interests Section building in downtown Havana. Direct feedback was available immediately. Prior to Government of Cuba (GOC) jamming, the TV Marti signal reception was reported to be very good. This was confirmed upon analysis of video tape of TV Marti VHF transmissions made by the Interests Section. Spectrum analyzer measurements showed the TV Marti signal and power level to be as good as or better than locally broadcast Havana television signals. It was reported that a good quality picture was received in Havana even when the transmitter was operated at reduced power for operational reasons. These observations were made during the first week of TV Marti when the GOC did not jam the programing until 15 to 20 minutes after transmissions had begun.

Interests Section personnel have also monitored TV Marti from their homes in greater Havana, and by visiting outlying areas in and around a 100 mile radius of Havana with a portable television set in their cars. Less concentrated monitoring has been carried out throughout Cuba.

As predicted prior to the initiation of TV Marti, Cuban jamming is incomplete in some areas. Mobile and stationary monitors have been unable to receive the TV Marti signal in urban Havana because of effective Cuban jamming. However, mobile monitoring teams from the Interests Section were able to receive good audio and visual reception, despite Cuban jamming, at specific locations within a geographic area which runs from the northeast to the southwest of Havana. This area is 15 to 50 miles outside Havana and is approximately 10 miles wide by 60 miles long. The picture in these areas is clear and remained viewable during the period in which the monitors were present in the specific location. In some areas, however, when monitors moved a few blocks the picture was lost to jamming.

Based on the population in the reception area, the Interests Section concludes that there are a possible 50,000 to 70,000 individuals who could occasionally view TV Marti. Given that monitoring is carried out in a vehicle and on an occasional basis, the length of time during which viewers receive a reliable and good quality signal is unknown.

The Interests Section in Havana provided Cuban visa applicants with simple questionnaires designed to determine if they had seen TV Marti or knew of someone that had seen it. Of a sample population of 1,899 respondents, seven respondents claim to have received TV Marti clearly despite jamming, and seven others reported viewing a distorted but not totally jammed image. As an approximate 70% of the sample population lives in the TV Marti viewing area, this would indicate that about 0.5% of the population in the viewing area could receive a good picture.

The United States Information Agency (USIA) commissioned an independent survey research firm, Belden and Russonello, to survey Cuban immigrants and non-immigrants to the U.S. regarding reception of TV Marti. The survey period ran from March 27 (when TV Marti broadcasts began) to May 6, 1990. Interviews principally were conducted in the Miami International Airport and the INS Krome Center from April 18 to May 6. The research firm of Schulman, Ronca, and Bucuvalas, Inc. analyzed and interpreted the survey data in a report entitled *TV Marti Signal Strength Study: Final Report on Survey Findings.*

The major findings of the study are:

28% or approximately 273,000 households in the primary target area for TV Marti should be able to receive the broadcasts, at least occasionally.

There is considerable interference, which makes reception of TV Marti difficult and sometimes erratic.

External directional antennas have a significant impact on both the ability to receive TV Marti and the consistency of reception.

The interest in TV Marti, at least among this sample of Cuban tourists, emigres, and political refugees, is high. 81% of those surveyed who resided in the target area reported having tried to tune in TV Marti, many on several occasions.

The widely varying findings reported by the Interest Section and the USIA survey cannot be fully understood until we are able to conduct unimpeded research in Havana. This is not an early prospect, since the GOC has refused visas to VOA technicians who were to be sent to Havana to assist in carrying out monitoring.

CUBAN REACTION:

TV Marti broadcast began on March 27 on channel 13. The GOC jammed the signal about twenty minutes into the initial broadcast. By the end of the first week, the GOC was able to jam the program within a few minutes after the broadcast began at 0345 and until it ended at 0645. While TV Marti is on-the-air, the GOC jams both the visual and audio program.

The channel 13 station in Alamar generally runs repeats of other local Havana television stations during the hours of 0700 to 0130. On July 2, Cuba began broadcasting programs on channel 13 at 6 a.m., and in turn, TV Marti shortened its broadcast hours to avoid harmful interference. Moreover, after the initiation of TV Marti, the GOC established another channel 13 station in downtown Havana. This station is scheduled to begin regular service on July 28. There is no television service on either of the channel 13 stations in the Havana area during the hours TV Marti broadcasts to Cuba on this channel.

The GOC has sent harmful interference complaints to the Federal Communications Commission and complained to the International Frequency Registration Board (IFRB) of the International Telecommunications Union about USG use of channel 13. The GOC considers TV Marti a violation of its sovereignty because TV Marti transmissions are directed at Cuba from US territory.

The Cubans have effectively prevented reception of the Radio Marti medium-wave AM signal by counterbroadcasting on that frequency. In April, the GOC began interfering with Radio Marti AM broadcasts and it effectively blocked reception in Havana. In mid-June the GOC announced that it was extending its interference to stations throughout Cuba. The high-powered Cuban counterbroadcasts on Radio Marti's frequency also cause harmful interference to radio stations in the AM-band within the US. While about seventy percent of Cuban listeners have access to Radio Marti on short-wave frequencies, we do not know how

many listeners of AM broadcasts may have switched to short-wave.

INTERNATIONAL AND BILATERAL REACTION:

International and bilateral reaction to TV Marti has not resulted in any demonstrable harm to US foreign policy. Although there has been a generally negative reaction, especially in Latin America, public statements by officials and commentators have been mild with few exceptions. Our European allies stated prior to the broadcasts that they noted that it was our intention to abide by our international obligations. The Soviet Union and Cuba have strongly stated their objections to TV Marti. Cuba considers TV Marti a violation of its sovereignty. There has been little if any commentary from Eastern Europe and Africa.

The Government of Cuba, as a member of the United Nations Security Council, attempted to obtain support from the members of the United Nations for a statement that would condemn TV Marti. It was unsuccessful.

In response to Cuban complaints of harmful interference and charges that the United States was violating Cuban sovereignty, the International Frequency Registration Board informed the USG that TV Marti operations do not conform to a regulation which in principle admonishes members to avoid across border broadcasts. The United States disputes the IFRB's interpretation of this regulation because many countries broadcast across borders. We believe that the IFRB argument is flawed and that the Board is acting beyond its scope of authority.

LEGAL CONSIDERATIONS

There is no legal basis for objection *per se* to radio and television broadcasts from one country to another. Article 19 of the Universal Declaration of Human Rights, a widely-cited but non-binding resolution adopted by the United Nations Assembly in 1948, provides that:

"Everyone has the right of freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

This concept is expressed in other international instruments including the International Covenant on Civil and Political Rights and the Helsinki Final Acts. While such provisions do not affirmatively grant governments the right to send radio or television programs into another country, the precedent is well established. Stations which operate across borders include the BBC External Service, Vatican Radio, Radio Berlin International (GDR), and until recently, Radio Moscow from Cuba in the English language. Initiatives undertaken by the United States in international broadcasting have further fostered the free flow of information. Radio Free Europe, Radio Liberty, and RIAS-TV (Radio-TV in the American Sector, Berlin) have provided information to those otherwise unable to obtain it; they have continued despite protestations from affected governments relating to program content and national sovereignty.

Radio Marti and TV Marti continue this tradition of VOA programming. The Government of Cuba, entities such as the Vatican, the Soviet Union, the United Kingdom, as well as other governments, have long engaged in the cross-frontier international broadcasting of information and ideas.

At the same time, however, there is an obligation not to cause harmful interference to another country's broadcasts. As the largest user of the electromagnetic spectrum, the United States actively supports the international legal regime which allocates the radio frequency spectrum and allows for the registration of radio frequency assignments in order to ensure orderly international use of the frequency spectrum and to avoid harmful interference between radio stations of different countries. Cuba and the United States are both party to the International Telecommunication Convention (Nairobi, 1982) and to the Radio Regulations (Geneva, 1979) which complement it. (The term "radio" encompasses all forms of broadcasting including "television".) The obligations described in these agreements relate to frequency use and are neutral with regard to program content of the signal.

The fundamental obligation regarding the use of radio (TV) frequencies as expressed in Article 35 of the International Telecommunication Convention is for radio transmissions to avoid harmful interference to frequencies used by other members:

"All stations, whatever their purpose, must be established and operated in such a manner as not to cause harmful interference to the radio services or communications of other Members. . . ."

The Radio Regulations permit member countries wide latitude in their use of frequencies, notwithstanding other detailed provisions, so long as stations do not cause harmful interference.

"Administrations of the Members shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations given in this Chapter or the other provisions of these Regulations, except on the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the provisions of the Convention and of these Regulations."

FUTURE OPERATIONS OF TV MARTI

TV Marti was designed and is operated so as to avoid harmful interference to Cuban, United States and third-country television services. The antenna which directs the signal carrying TV Marti programming was constructed to minimize side lobe radiation which could interfere with stations outside the Havana area. The antenna design is suitable for the frequency associated with channel 13, the channel unused by Cuba in the Havana area during broadcasting. Additionally, as the notification to the International Frequency Registration Board makes clear, the operating hours of TV Marti are selected so as to avoid harmful interference to a low power Cuban station, even though it seems to have been established by the Cuban regime principally to frustrate the prime time operation of TV Marti.

UNITED STATES TO CUBA: DON'T EXPORT PROBLEMS

(By Sandra Dibble and Luis Feldstein Soto)

The United States, denying any role in Cuba's growing diplomatic fracas, joined the war of words Friday by lecturing President Fidel Castro to keep his problems at home.

One day after Castro challenged the United States to "send the boats and visas," the State Department warned against any Cuban attempt to open its ports to another Mariel-like boatlift.

"We reject Castro's attempt to export his internal problems to the United States by encouraging people to leave," said State Department spokesman Richard Boucher. "Cuba's problems can only be resolved at home through democratic process and freedom of speech."

Boucher said the United States has formally protested Castro's "baseless and irresponsible accusations," made during his nationally televised speech Thursday before hundreds of thousands of Cubans in Havana's Plaza of the Revolution.

Castro, coping with a rash of break-ins into foreign embassies, branded Spain and the United States as conspirators in an "imperialist aggression" to destabilize his 31-year-old regime. Twenty-two Cuban asylum-seekers remain holed up in the Spanish and Italian embassies in hopes of escaping the island.

In his three-hour speech, Castro tried to turn his woes against the United States and Western European countries. He made a jarring proposal to resolve the impasse using language that was startlingly reminiscent of his comments just before the 1980 Mariel boatlift.

Castro challenged the United States and Europe to take in all Cubans who want to leave the island.

"If they want, we can make an agreement, Spain and the European Community and ourselves . . . for free exit to the right-wing community of Europe for all who want to go," Castro told the cheering crowd in festivities marking the onset of the Cuban revolution.

He added: "Let them send the boats and visas."

But the State Department wasn't playing along Friday. Boucher said the Bush administration has no plans to alter its Cuban immigration policy. It's up to Castro to "solve his problems at home if the Cuban people are going to have a place where they can live in peace and where they want to stay," he said.

Yet Castro's words immediately set off speculation that he could be pondering another Mariel, which brought 120,000 Cubans to South Florida in a five-month exodus that caught Miami unprepared.

On Friday, many exiles were unsure whether Castro was merely trying to score propaganda points—or seriously threatening another boatlift. Even the State Department did not dismiss the prospect outright.

"Castro is trying to get rid of people rather than face the legitimate questions that they raise about his regime," Boucher said.

Most exile leaders, convinced that political changes sweeping Eastern Europe will soon convulse Cuba, oppose another boatlift. With internal tensions mounting in Cuba, they say, such a boatlift would only buy time for Castro.

"We should not let Castro do what he did during the Mariel boatlift," said Tony Costa, chief lobbyist for the powerful Cuban American National Foundation. "We should not let Castro dictate our immigration policy."

The State Department said it would stick to its immigration accord, which allows up to 20,000 Cuban emigres per year but in reality has brought closer to 3,000.

Boucher declined to say how the administration would react if Castro opened a port and local exiles embarked for Cuba to pick up relatives, as they did during Mariel and the much smaller 1965 exodus from the port of Camarioca.

Few doubt that an open port would generate a new flotilla of Mariel proportions. Reforms in Eastern Europe, lower Soviet subsidies and newly strained relations with Spain are exacerbating Cuba's economic troubles.

Compounding the problem is a near halt in emigration to the U.S., long an escape valve for the island's internal pressures. Record numbers of Cubans have been risking their lives to cross the Florida straits in rafts and small boats.

So far this year, the U.S. Coast Guard has rescued 216 Cubans at sea, compared to 93 in the same period last year. Last year's total of 389 was the highest for the decade.

"There are a lot of people who would like to leave now if given a chance," said Thomas Boswell, a University of Miami professor. "Whether or not hundreds of thousands of Cubans come will depend less on Castro than on the posturing and position of the United States government."

Alicia Torres, director of the Washington, D.C.-based Cuban American Committee Research and Education Fund, said Cuban officials are irate over the slow pace of immigration to the U.S.

"If this stuff does not get resolved, I don't see Cuba close to opening up the doors again, and saying 'OK, everyone who wants to leave can leave,'" Torres said.

But if many conditions are ripe for a new boatlift, many others aren't.

"I don't think another Mariel is possible," said Miami-Dade Community College Prof. Maria Cristina Herrera. "I don't think we are in 1990 where we were in 1980. The situation inside the island is different. The whole world is different."

Several scholars agree that if a boatlift materializes, the U.S. government would be better prepared than in 1980 to stop it. But Prof. Lars Schoultz, president-elect of the Latin American Studies Association, said Washington may not be willing to risk the wrath of Miami's powerful Cuban exile community.

"We can do what we do to the Haitians. We can send the Coast Guard out there and stop the boats, Schoultz said. "It is highly unlikely, unthinkable during the election year. The last thing they want to do is have the Cuban community become even modestly disaffected with the Republican Party.

"If a little flotilla does develop, old George Bush is in big trouble. He cannot stop it. If you get the start of a replay of Mariel, it will get completely out of hand."

CONGRATULATIONS TO NORTH CAROLINA'S STRIKERS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PRICE. Mr. Speaker, I rise today to commend the Durham-Chapel Hill Strikers Soccer Team and to congratulate them on an outstanding season and their participation in the prestigious National Youth Challenge Cup Soccer Tournament. Coached by University of North Carolina-Chapel Hill men's soccer coach Elmar Bolowich, this 19 and under boys select soccer team is the first from Durham and Chapel Hill to participate in regional play. These 17 youths represent some of the Nation's finest athletes in this age group, and are current or former varsity players from Jordan, Durham Academy, Northern, Chapel Hill and Apex high schools, in addition to a member from each of the Radford and UNC–CH college teams.

The Strikers deserve special recognition for their competitive play in the USYSA National Youth Challenge Cup. At the beginning of tournament action, the unranked Strikers had to qualify even to participate at the State level. After qualifying for the State tournament, the Durham-Chapel Hill Strikers defeated Raleigh's previously unbeaten International Soccer Academy to claim the 1990 State NCYSA Cup and advance to the South Regionals held in Atlanta, GA. Here the Strikers were up against the best teams from nine other Southern States all competing for the bid to play in the semifinals of the USYSA National Youth Challenge Cup for the national title.

The Strikers toppled each opponent and headed to the national finals in Woodbridge, VA last month where they finished in fourth place for the National Cup.

I am extremely proud of these fine athletes and Coach Bolowich, and I enjoyed meeting with the team while they were in Washington. The Strikers have shown remarkable dedication to the sport and strong teamwork in their impressive first showing in the USYSA National Youth Challenge Cup. I, along with other North Carolinians, congratulate the Strikers on the achievements that determination and skill have earned them.

WARNING OF A FREE-TRADE PACT WITH MEXICO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BEREUTER. Mr. Speaker, this Member commends the following opinion editorial by Prof. Robert Dunn of George Washington University which is found in the August 1, 1990 edition of the Washington Post. Dr. Dunn, a professor of economics at that institution in this capital city, very appropriately warns that with the economic benefits accruing to this country through such a free trade pact would also redistribute income away from unskilled and semi-skilled American laborers. Such an agreement, therefore, would require compensation if a further skewing of income is to be avoided.

[From the Washington Post, Aug. 1, 1990]

LOW-PAID WORKERS WOULD LOSE EVEN MORE IN FREE-TRADE PACT WITH MEXICO

(By Robert M. Dunn Jr.)

A free-trade pact between the United States and Mexico is being portrayed as little more than an extension of the U.S.-Canada free trade deal of two years ago.

It is no such thing.

Free trade between the United States and Mexico would affect the distribution of income within the United States in ways that need careful consideration before such a system is implemented. The U.S.-Canada pact did not produce these effects, so this problem did not arise two years ago.

Although free trade between the United States and Mexico would increase total incomes in this country, it would also redistribute income away from unskilled and semi-skilled labor and toward professional and technical labor and capital. Because the "winners" would be people whose incomes are already above average, while the "losers" would start with below average incomes, this arrangement would make the distribution of U.S. incomes more unequal.

This is because of the types of products each country would export to the other, and because of the resulting expansion of some industries and contraction of others. It is an argument first developed 70 years ago by two Swedish economists, Eli Hecksher and Bertril Ohlin.

They noted that when there is free trade between two countries when one has an abundance of labor and the other an abundance of capital, each will export products that use a great deal of its abundant input.

Labor-abundant countries export textiles because that industry uses a great deal of labor. Countries with large amounts of capital export products such as chemicals that require a lot of capital.

In the U.S.-Mexico case, this means that the United States will import labor-intensive goods such as garments and shoes from Mexico and will export capital and professional and technical labor-intensive goods such as computers and machinery. With an underemployed population of about 90 million people, Mexico could produce a huge volume of garments and shoes.

This pattern of trade would mean that labor-intensive industries in the United States would shrink, while capital and technical labor-using industries would expand. The U.S. demand for unskilled and semi-skilled labor would fall, while the demand for capital and for highly educated labor would grow. As a result, U.S. wage rates for unskilled and semi-skilled labor would fall, while returns to capital and to professional and technical labor would rise.

The U.S.-Canada free-trade agreement did not produce this effect because these two countries have very similar economies. U.S. labor is not threatened by competition from Canadians whose wages are similar to those prevailing here, but competition with Mexican labor is a very different matter.

Retraining laid-off workers, with the goal of making them high-income skilled workers, is often seen as the answer, but experience with such programs has been very disappointing. Most of the affected workers have limited educational backgrounds, and many are not young. Despite retraining efforts, they generally have ended up with lower incomes than in the jobs they lost.

There is a solution to this income redistribution problem, but it is difficult to implement. Because total U.S. incomes would undoubtedly rise as a result of free trade with Mexico, the winners would gain more dollars than the losers would lose. This makes it possible for the winners to compensate the losers and still gain. If, for example, half of the population gains $100 each from free trade, while the other half loses $50 per person, the winners could pay the losers $50 each, thus restoring their original incomes, while still having net gains of $50. If those benefiting from free trade with Mexico paid part of their gains as additional taxes, and if the revenues were used to compensate those whose incomes would decline, this would be an arrangement in which nobody loses.

The compensation approach is theoretically simple, but politically and administratively difficult. It implies a more active income redistribution policy from Washington, which is not a politically popular idea. It is also far from easy to measure the gains and losses with precision, so the compensation would be approximate at best. In any event, this approach has never been seriously considered by the Congress as part of U.S. trade policy.

Until it is clear that compensation will be provided, the AFL-CIO and other representatives of labor are correct in opposing the U.S.-Mexico free trade proposals. Most Americans are not unskilled or semi-skilled and would clearly gain from this arrangement, but the losers would be irrational if they did not oppose it.

There is, however, one way in which U.S. labor and the AFL-CIO would gain from free trade with Mexico, but it only partially offsets these income distribution effects.

Because Mexico is on the opposite side of the Hecksher-Ohlin process from the United States, it would export labor-intensive goods, and experience an increase in wage rates. Higher Mexican wages would reduce pressures to emigrate, thus cutting the number of illegal immigrants coming to the United States to compete with U.S. workers.

For years, the AFL-CIO has been looking for ways to reduce competition from foreign workers within our economy, and now it could have one, although it is a very expensive solution to the problem of illegal immigration. It requires trade flows that would reduce U.S. wage rates, which defeats the original reason for trying to keep foreign workers out.

Free trade with Mexico or the free international mobility of labor would produce the same income distribution effects. U.S. wages fall, while those in Mexico rise. The rational AFL-CIO goal is to both avoid free trade and keep foreign workers out of this country.

The United States faces a difficult dilemma in designing a policy for its trade with developing countries. On one hand, this country wants the gains in total income that result from free trade and would also like to encourage the growth of these economies and reduce pressures for their workers to try to come here. On the other side, there is already strong evidence that the distribution of U.S. incomes has become more unequal in the last two decades, and free trade with countries such as Mexico would make that problem worse.

If the United States is going to pursue free-trade discussions with Mexico as well as other Latin American countries, as suggested recently by the White House, serious thought must be given to providing compensation.

RECIPROCITY IN INTERNATIONAL GOVERNMENT PROCUREMENT ENFORCEMENT ACT OF 1990

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CONYERS. Mr. Speaker, on behalf of myself, the distinguished ranking minority member, Mr. HORTON, as well as several distinguished members of the Committee on Government Operations—Mrs. COLLINS, Mr. BUSTAMANTE, Mr. LANTOS, Mr. NEAL, Mrs. BOXER, Mr. KLINGER, Mr. MCCANDLESS, and Mr. SHAYS—I am today introducing the Reciprocity in International Government Procurement Enforcement Act of 1990.

This legislation is the result of hearings held by the Legislation and National Security Subcommittee on the operation of international procurement agreements and the implementation of the Buy American Act of 1988. It will facilitate access for U.S. companies to international Government procurement markets estimated to be more than $200 billion.

On February 28, on behalf of myself, our distinguished ranking minority member, Mr. HORTON, and Mr. BUSTAMANTE, I introduced H.R. 4132, the Reciprocity in International Government Procurement Act of 1990, which amends the Buy America Act of 1933 to require that the U.S. Trade Representative approve any public interest waiver of that act's requirements.

Such a step is essential in obtaining access for U.S. companies to the nondefense Government procurement markets of our trading partners such as heavy electrical, telecommunications, supercomputers, and other manufactured goods. While the International Government Code of 1979 signed by 20 countries including the United States has sought to open these markets to U.S. companies, the record of accomplishment has been dismal. Fully 80 percent of the Government procurement opportunities under the Code are U.S. procurements. Such a situation, as pointed out by the General Accounting Office at our September 1989 hearing, represents a serious imbalance in Government procurement opportunities for our companies.

The legislation that we are introducing today would incorporate H.R. 4132, and accomplish two further changes:

First, our bill will remove a massive loophole in the Buy American Act which was utilized by the administration to avoid identifying countries as having engaged in government procurement discrimination against U.S. firms. This section of our bill would delete section 7003(C) of title VII—Buy American Act of 1988—from the Trade and Competitiveness Act of 1988—Public Law 100-418.

Section 7003(C) authorizes the President to "use any additional criteria deemed appropriate" in identifying countries engaging in Government procurement discrimination against U.S. firms. At our oversight hearing on May 1, 1990, we received testimony from the Deputy U.S. Trade Representative to the effect that despite the conclusion that several of our major trading partners were, in fact, discriminating against U.S. companies, this section was invoked as authority not to make formal identification which would then trigger mandatory consultations and sanctions if such negotiations failed. The reason given was that negotiations to liberalize trade were underway and that formally identifying such countries which is what the law required could undermine overall policy goals. We find this to be a misinterpretation of what the purpose of the statute was intended to do. Because reports identifying countries engaging in procurement discrimination will continue to be required through 1996, it is unhelpful to maintain a provision which is likely to become an all-purpose escape hatch. Our bill, therefore, eliminates this loophole.

Second, the imbalance in procurement opportunities between the United States and other nations appears to indicate significant impediments to the ability of U.S. manufacturers to compete for multibillion dollar Government procurement markets. Our hearings disclosed that official statistics on U.S. sales occurring under the International Government Procurement Code and other recent data necessary for congressional oversight carry a national security classification. This appears unsupportable especially in view of the fact that the 19 other Code signatories have this information. Moreover, testimony received from the General Accounting Office indicated that much of this data is already public knowledge both in this country and abroad.

In order to address this problem, our bill requires that the Office of Federal Procurement Policy report to our committee no later than April 30, 1990, of each year on contracts and subcontracts awarded to foreign firms under all international procurement agreements. This would include procurements made under the Reciprocal Memorandums of Understanding by the Department of Defense as well as the International Government Procurement Code. This is especially important in light of the GAO's testimony pointed out serious deficiencies in reporting the extent of foreign contracting conducted by DOD. During our May 1, 1990, hearing the message was clear on this point: U.S. defense exports abroad may be overstated while imports may be understated.

Mr. Speaker, it is essential that Congress address the problem created through years of promoting international arms procurement at the expense of nondefense procurement. Integrating defense and civil manufacturing is one of the basic challenges we face in the years ahead.

It is also important that there is improvement of the U.S. data on defense and nondefense international procurement. The availability of accurate data will have a critical effect on the U.S. negotating position in international negotiations, and will allow Congress to exercise its role more effectively.

One of the steps which we can take to ensure fairness in international procurement is through enactment of the legislation we are introducing today.

I want to encourage my colleagues to cosponsor this legislation, and look forward to early hearings by our subcommittee.

HUSSEIN HAS MORE ARMOR THAN BELLIGERENTS OF WORLD WAR II NORTH AFRICA CAMPAIGN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLOMON. Mr. Speaker, the world is still a dangerous place, especially if America, leader of the free world, is not in a position to deal with threats from a position of strength.

I submit to you that Saddam Hussein of Iraq is just such a threat.

But I could not say it with more eloquence than Harry Summers did in his August 2 column in the Washington Times.

He began by pointing out that Hussein presently has more battle tanks than General Field Marshall Rommel, British Field Marshall Montgomery, and our own General Eisenhower had during the World War II North African campaign.

Mr. Speaker, I suggest all Members take heed, as we rush to strip America's defenses.

I enter Mr. Summer's column in today's RECORD:

[From the Washington Times, Aug. 2, 1990]

REMINDING US OF DEFENSE NEEDS

(By Harry Summers)

Events in the Persian Gulf last week underscored the fact that even though the Cold War may have ended, defending American interests abroad remains a most formidable task. On June 22, 1990, in what would prove to be an especially prescient address, Gen. Colin Powell, chairman of the Joint Chiefs of Staff, observed to his National Press Club audience that "In Iraq alone there are more tanks than Rommel had in his Afrika Korps. More than that, (with some 5,500 main battle tanks) Iraq has more tanks than Rommel, Montgomery and Eisenhower combined had during the North African campaign.

"So even as we reduce, we must maintain the ability to deter and defend," Gen. Powell warned. "We must maintain the ability here in the continental United States to reinforce rapidly [with] heavy active forces, trained and equipped to deal with the modern heavy conventional capability that will still be possessed by the Soviet Union and other similarly equipped nations. It also means that we must invest in strategic air and sea lift to get us to the point of crisis should it be necessary to go there."

Less than a month later, Gen. Powell's words became reality, as Iraq massed two armored divisions on its border with Kuwait to coerce that country, and other oil-producing nations in the region as well, to follow the Iraqi lead in curtailing output of the Organization of Petroleum Exporting Countries and thus drive up the price of oil.

It was a direct challenge to American interests.

So what did we do about it? We sent two aerial refueling tankers to the region, and announced a short-notice join naval exercise with the naval forces of Kuwait's neighboring United Arab Emirates.

"Bush administration officials said the moves were intended as a demonstration of support for the two small gulf states," reported the July 25, 1990, New York Times, "and as a signal to Iraq that Washington was prepared to use military force to defend the flow of oil through the Straits of Hormuz."

But the Straits of Hormuz were not the issue. It was, rather, the continued existence of Kuwait as an independent nation, an existence threatened by all the Iraqi armor poised on its border. And to counter that threat, the American air and sea response was pitifully inadequate. Heavy land forces, as Gen. Powell had prophesized, were what was needed. But America's heavy strategic reinforcement units, such as the 2nd Armored Division at Fort Hood, Texas, were disbanding, not deploying. The result was Kuwait's submission to the Iraqi demand for a price fix. But that might not be the worst of it.

"The danger," noted the British journal the Economist, "is that, having discovered the weakness all around him, [Iraq's President Saddam Hussein] will decide he is pushing at an open door."

That is a very real danger, for, left to its own devices, the Arabian Peninsula is indeed an open door. Between them, the Gulf Cooperation Council—Kuwait, the United Arab Emirates, Bahrain, Qatar, Oman, and Saudi Arabia—do not have the combat power to stand up to Iraq's million-man force.

Battle-hardened in its long war with Iran, Iraq not only has all those tanks, it also has a chemical warfare capability that it has shown no hesitancy in using, and there is a distinct possibility that it will have nuclear weapons in the future. All this makes real the Iraqi military threat to the Arabian peninsula. And so is its threat to American access to Mid-east oil.

But despite Gen. Powell's prescription for a "national security insurance premium" to counter that threat, our capability is getting progressively weaker. Instead of developing strategic sea and air lift capable of transporting heavy forces into position, military planners, with Procrustean logic, have instead opted to cut the heavy force to fit the available strategic lift.

This is a recipe for disaster on a far larger scale than their earlier mutilation of the infantry squad, which was cut from 11 men to nine so that the squad—combat capability be damned—could fit into the so-called Bradley fighting vehicle.

In a world where some 30 nations have more than 1,000 main battle tanks, reliance on a primarily light military force on the grounds that it can be rapidly deployed is strategic madness. The rapidity of its deployment would only be exceeded by the rapidity of its destruction.

We found that out almost 30 years ago in "Desert Strike," a major training exercise in central Texas where two airborne divisions were deployed against the 2nd Armored Division. The result was a rout, with the tanks rapidly running the hapless paratroopers into the ground. It is a scenario that would be tragically repeated if U.S. light military forces were deployed in the face of Iraqi armored divisions.

How to bring our heavy forces to bear is a major strategic challenge. "This is still a dangerous world," Gen. Powell said, "and you had better be able to respond if someone challenges your interests." This time we'll pay at the gas pumps for our inability to respond. Before we find what the price will be next time, we'd better get our military house in order.

(Harry G. Summers Jr., a retired U.S. Army colonel, is a distinguished fellow of the Army War College and a nationally syndicated columnist.)

INTRODUCTION OF CALIFORNIA TRIBAL STATUS ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MILLER of California. Mr. Speaker, today I am introducing, along with 10 colleagues from California, comprehensive legislation to address the problems of California Indians.

This legislation, entitled the "California Tribal Status Act of 1990," seeks to correct a number of longstanding legal impediments that prevent California Indians from receiving the Federal services to which they are entitled.

The bill also initiates a process designed to make recommendations to assure that California Indians have life opportunities at least comparable to other American Indians.

Mr. Speaker, we are all aware of the complex and often confusing legal status of California Indians. The history of their relationship with the Federal Government is not one we can be proud of.

As a result, California Indians do not receive Federal health care, education, and other services to which they are entitled.

It is time for us to undertake a comprehensive approach to resolve the questions surrounding the legal status of California Indians.

This legislation will do just that.

The bill repeals termination statutes passed in the 1950's which disenfranchised 37 rancherias and 61 tribes.

The Secretary of the Interior would be required to provide a definitive answer within 2 years to those Indian groups applying for recognition.

Finally, a congressional commission would be established to make recommendations for improving the delivery of social and economic services to California Indians.

Mr. Speaker, this bill will lay the foundation for a stable and lasting relationship between the Federal Government and California Indians.

Rights and privileges California Indians have been denied for too long will finally be guaranteed.

I hope my colleagues can join me in support of this important legislation.

A section-by-section description of the bill follows:

CALIFORNIA TRIBAL STATUS ACT OF 1990

Sec. 1. Short title.

Sec. 2. Findings.

Sec. 3. Purposes.

Sets forth purposes of the bill which are to: confirm existing recognition of certain California Indian tribes; approves relationship with tribes not previously recognized; develops an expedited procedure to facilitate recognition and restoration for California Indian tribal groups; and, establishes a Congressional commission to study how to improve the delivery of services to California Indians.

Sec. 4. Definitions.

TITLE I—RECOGNITION OF CALIFORNIA INDIAN TRIBAL GROUPS

Sec. 101. Short title.

"California Indian Recognition and Restoration Act of 1990."

Sec. 102. Recognition of California Indian tribal groups.

Extends Federal immediate recognition to six California Indian groups; the bill does not, however, identify those tribes. This will be added at committee hearings.

Restores Federal recognition to tribal groups and their members whose relationship was terminated by Public Law 85-671, as amended. This group includes: Wappo Tribe (Sonoma County); Nisenan-Southern Maidus Tribe (Placer County); Wilaki and Maidu Tribes (Butte County); Northern Pomo Tribe (Mendocino County); Pomo Tribe (Sonoma County); Maidu Tribe (Nevada County); Nomlaki Tribe (Tehama County); Northern Pomos Tribe (Lake County); and, Miwok Tribe (Sacramento County).

TITLE II—ACKNOWLEDGMENT PROCEDURES FOR CALIFORNIA INDIAN GROUPS

Sec. 201. Short title.

"California Indian Tribal Acknowledgment Procedures Act of 1990."

Sec. 202. Scope.

Rights of application under this title shall be available to all California Indian tribal groups.

Sec. 203. California Indian tribal recognition process.

Any California Indian tribal group may apply for acknowledgment by submitting a petition containing specified information.

Sec. 204. Notice of receipt of petition.

Secretary must notice receipt of any petition for acknowledgment within 30 days.

Sec. 205. Processing the petition.

Secretary shall conduct a review of any petition received, and within 12 months, send a letter of obvious deficiency (OD). Within 120 days of receiving the response to the OD letter, the Secretary must make a preliminary ruling on whether to extend or deny acknowledgment. If the decision is to deny, the Secretary must explain why and publish the explanation.

If the Secretary fails to perform any required functions, a writ of mandamus may be filed in Federal court by the aggrieved party.

Petitions shall be considered on a first-come, first-served basis, except that petitions from parties to treaties shall have priority.

Sec. 206. Proposed findings and determinations.

Within one year of receiving response to an OD letter, the Secretary shall make a proposed finding on an acknowledgment request. If the decision is not to recognize, the Secretary shall publish the reasons for denial.

Sec. 207. Assistance to petitioners.

The Administration for Native Americans is authorized to make competitive grants to California Indian tribal groups to assist them in making applications for acknowledgment.

TITLE III—COMMISSION ON POLICIES AND PROGRAMS AFFECTING CALIFORNIA INDIANS

Sec. 301. Establishment of the commission.

Establishes a Commission on Policies and Programs Affecting California Indians. Composed of 3 Representatives, 3 Senators, and 3 Indian members selected by the Representatives and Senators.

Sec. 302. Duties.

Duties of Commission shall be to conduct a study, within 24 months, of the effectiveness of Federal and state policies and programs for California Indians, and recommend specific actions to Congress for: (1) assuring California Indians have "life opportunities" comparable to other American Indians; (2) addressing the economic needs of California Indians; and, (3) respecting the cultural differences of California Indians.

Sec. 303. Powers.

Provides authority to Commission chairman to hire staff and carry out administrative duties.

Sec. 304. Termination.

Terminates Commission 180 days after submission of report.

Sec. 305. Authorization of appropriations.

Authorizes $5 million to carry out the provisions of this title.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Transfer of land to be held in trust.

Authorizes the Secretary to accept real property for the benefit of a California Indian tribal group recognized under this Act.

Sec. 402. Membership rolls.

Within one year after recognition or the date of enactment whichever is later, each California Indian tribal group recognized under this act shall submit current membership rolls. Tribes shall establish their own criteria for enrollment.

Sec. 403. Economic development plans.

Secretary shall, at the request of each recognized California Indian tribal group, develop economic development plans.

Sec. 404. Applicability of other laws.

Unless otherwise stated, all Federal laws of general application to American Indian tribes shall apply to recognized California Indians tribal groups.

Sec. 405. Regulations.

Authorizes the Secretary to implement such regulations as deemed appropriate to implement this Act.

Sec. 406. Authorization of appropriations.

Authorizes appropriation of such sums as are necessary to carry out the provisions of this Act.

INTRODUCTION OF MR. DURBIN'S SPEECH INTO CONGRESSIONAL RECORD

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. WHITTAKER. Mr. Speaker, the Association of American Cancer Institutes [AACI], on June 22, 1990, awarded to Representative RICHARD DURBIN, the first annual AACI Leadership Award. The award reads: "The Association of American Cancer Institutes is proud to present its 'AACI Leadership Award' to U.S. Congressman RICHARD DURBIN in recognition of his outstanding service to the public in the fight against cancer."

Introducing Mr. DURBIN to the members of the AACI at their annual meeting in Rochester, MN, Dr. Sydney E. Salmon, director of the Arizona Cancer Center and president of the AACI, indicated Mr. DURBIN had performed extraordinary work for the cancer research effort in the United States in particular, and all of biomedical research in general, by his work both in the Budget Committee and the Appropriations Committee of the U.S. House of Representatives. Through his work, excellent Budget Committee language supporting biomedical research was added, and the committee advised that over $700 million be added for biomedical research in this year's appropriations process.

This is a singular honor. The Association of American Cancer Institutes represents more than 70 cancer centers throughout the United States, many of which have received core grants support from the National Cancer Institute.

The Institute of Medicine, in a recent study, indicated that:

Scientists and clinicians in institutions with NCI core grants receive nearly half the research project grants awarded by the NCI through a process of competitive peer review, and they receive substantial amounts of peer-reviewed support from other NIH institutes, the National Science Foundation, the American Cancer Society, and other sponsors. As a result, cancer center researchers have been involved in many of the important basic, clinical, and epidemiologic cancer research advances made in the last 20 years. The centers also are sites for more than half of the cancer research traineeships funded by NCI * * *. As a group, the centers are a valuable resource for the NCI in the national effort to understand, prevent, and treat cancer and its consequences. They are also valuable community resources for cancer treatment, prevention and control, and education services.

So that my colleagues have the opportunity to read the speech that Mr. DURBIN delivered, I include it at this point in the RECORD:

REMARKS OF CONGRESSMAN RICHARD J. DURBIN

Twenty years ago, the President and Congress declared a "War on Cancer." For Americans, the National Cancer Act of 1971 was a call to arms. For taxpayers it meant economic sacrifice—dollars in return for new treatment and cures; for physicians, researchers, and the medical community, it meant personal sacrifice—hard work and dedication in return for greatly expanded resources; and for government officials, it was a commitment, a pledge to beat cancer.

Twenty years later, how have we fared? it is an important question to ask. From the perspective of a member of Congress, I would like to briefly mention where I think we are in the "war on cancer" and how we can renew the "call to arms" and improve our cancer program. Then I would like to spend some time examining the role of cancer centers in our effort.

Let me begin by pointing out one absolute maxim of war: victory does not come cheap. The one-half to one trillion dollars price tag of World War II was a significant amount; but it was not significant relative to the loss of freedom and peace that was at stake had we not waged the war and won.

Similarly, the war on cancer is costly. But is it too costly, too expensive, relative to the 500,000 lives lost each and every year? Not by any objective standard. In fact, relative to the destruction inflicted on us by cancer, I think Congress and the Administration are trying to win this war with a bare minimum of resources. And it won't work. It is the equivalent of equipping an army to fight with water pistols. It's time for Congress to change course and give NCI the equivalent of cancer fighting B-2 Bombers.

To begin with, the very least that Congress can do is fund NCI at the level recommended in its Bypass budget. No less. And not for one year here and one year there. NCI has provided a five-year blueprint. It should be consistently supported for all five years and beyond.

The Bypass budget is a realistic and comprehensive assessment of the needs of NCI for the cancer program. For Congress and the Administration to turn their back on the Bypass budget would be to break the pledge made in 1971 when war was declared on cancer. We must remind ourselves continuously that victory doesn't come cheap or easy.

All of you gathered here today know that victory over cancer is not easy—as researchers who try to unlock the mystery of cancer you know the job is not easy—as physicians and nurses who treat day after day emaciated, scared, cancer-stricken children you know the job is not easy—as cancer center administrators who allocate dwindling resources to ever growing departments, functions, and causes you know the job is not easy—but Congress, I'm afraid, doesn't know.

If you leave this conference resolved to do something, please let it be to inform Congress how hard this fight against cancer is, and how necessary additional resources are.

Make no mistake. You are the key to additional funds. I can assure you that my colleagues in Congress will respond positively to helping NCI if they know the facts. You have to inform them. Call your representatives and senators; write your representatives and senators; ask them to visit your centers and see first-hand the progress being made. Don't let them off. Keep building pressure, keep letters flowing, and show them how important your research and clinical work is to their constituents. You'll be surprised how well they'll listen.

And those of us in Congress who are familiar with the facts about NCI will do the same. We will work hard to persuade our colleagues to support a strong cancer program that meets the goals we have set and supplies the resources necessary for you to accomplish those goals.

Towards that end, advocates of greater resources for biomedical research recently had a victory. In early May, the House passed House Concurrent Resolution 310, the 1990 budget resolution, which contained a $750 million dollar increase for the National Institutes of Health. During budget committee mark-up, as I was struggling to obtain the highest figure possible for NIH, I was surprised and pleased by the level of support expressed by my colleagues. We have to tap that goodwill more frequently.

Where are we then, in the war on cancer? As someone not involved in the daily struggle against it, I don't have anywhere near the knowledge that you have about the cancer program. But, let me give you an indication, as an outsider, how the program is being assessed.

I see the annual statistics, and I am worried. The incidence, morbidity, and mortality figures keep going up. To me, a half a million lives lost annually to cancer is a national disgrace. But I realize the overall conclusion from the statistics should not deny the real successes in our efforts to control cancer. Those of you here who have had a hand in the research and treatment of diseases that affect children and young adults, can be especially proud of your efforts. For one form of cancer after another, death rates in the youngest age groups have been reduced. There can be no greater reward than to save the life of a child.

Over the last two decades, we have also witnessed marked improvements in palliation at all ages. It certainly still is no picnic getting rocked with a dose of cisplatin, bleomycin, and vinblastine or zapped with radiation or chopped by invasive surgery—but the incredible advances you have made bringing nearly normal lives to cancer victims is a remarkable achievement.

From advances in rehabilitative medicine to the development of drugs with fewer side effects, the discoveries that ease the pain of patients and help them lead more normal lives unfortunately go mostly unnoticed by the public, but are enormously important.

So where are the problems? I'm sure we are all aware of the General Accounting Office Report issued in 1987 that stated, "the improvements in patient survival have been most dramatic for the rarer forms of cancer and least dramatic for the more prevalent ones. As a result, even though the absolute number of lives extended is considerable, this number remains small relative to all cancer patients."

Is the relative lack of success in treating these more prevalent forms of cancer an indication of a void of ingenuity in our scientists, or an indictment of the skill of our physicians? Of course not. As you know, the conquest of the commonest of all lethal cancers depends on the will of the people and the will of the government.

Cancer of the liver, preventable through immunization, should not be tolerated. Yet, we lose thousands of lives a year by not aggressively attacking this preventable cancer. The 43,000 plus annual mortalities from breast cancer are a national disagrace. A government that can afford $700 toilet seats for its airplanes can afford $50 mammograms for the poor.

And, of course, there is lung cancer. Our national policies regarding tobacco are shameful. We subsidize a product that kills more Americans in two years than all the Americans who have died in battle from the Revolutionary War through Vietnam. As a co-chairman of the Congressional Task Force on Tobacco and Health, I can assure you that many members of Congress are actively seeking an end to the tobacco holocaust. Interestingly enough, tobacco advocates are moving away from arguing that smoking is not dangerous. The overwhelming preponderance of medical evidence, that many of you helped to provide, is drowning out that pitiful tobacco industry argument. They are now reduced to framing the debate as a battle over "smoker's rights" and economic losses: tobacco bashing, they claim, will cost jobs. My friends, let me tell you, I'll gladly vote to retrain cigarette company employees for 390,000 lives, any day of any year.

But, the government will have to take an active role in educating the public and reducing tobacco use before the real significant reduction in statistics occur. And for that to happen, we will need the continued strong support of the medical community. Happily inroads are being made.

In 1987, we saw the first crack develop in the tobacco lobby's armor with passage of the two-hour airplane smoking ban. Last year, that crack developed into a pretty deep crevice with passage of the permanent smoking ban. It was a pleasure for me to lead that fight. And I owe my extreme gratitude to those of you who helped. If we are to reduce the statistics of incidence and mortality of cancer, chipping away at the tobacco industry's armor isn't enough; we'll have to completely peel it off.

Obviously, the American people and Congress have a challenging road ahead in order to meet the goals we have set for the year 2000. Reducing the incidence of cancer by 50% is lofty, but it's possible with our current knowledge.

What are the challenges for our cancer centers program? Quite clearly, the first answer is money. And a significant part of most cancer center budgets is core grants from NCI.

I am aware that the leadership of your Association has made its case strongly to the Congress, and especially to the Appropriations Committee, about the low level of funding for the Cancer Centers Program in NCI, and about the serious difficulties in the administration of the program within NCI. As a result of that concern, the Senate Appropriations Committee requested a report by the well-regarded Institute of Medicine; that report, completed last year, made a number of suggestions regarding increases in the budget of the Cancer Centers Program and administrative changes.

I am very pleased to hear that NCI has taken a number of steps to administratively deal with the recommendations, and that your leadership has indicated to the Congress that the NCI has made its "good faith effort" to carry these out.

I congratulate the leadership of AACI for bringing this to the attention of Congress. The Institute of Medicine report will be a very positive instrument for you for years into the future.

One point, however, that concerns me deeply is that there have not been increases in the budget for the Cancer Centers Program. For example, it is my understanding that in fical year 1988 the program was budgeted at $100.4 million. In spite of the fact that the IOM report recommended appropriate increases for fiscal years 1989, 1990, and thereafter; in fact, in 1989 the program was only increased by seven-tenths of 1 percent. In fiscal year 1990, the program only went up by an additional 1.7 percent. In other words, there has been a 2.4 percent increase over the last two years, or 1.2 percent per year, far less than the CPI, and definitely far less than inflation for biomedical research, which is almost 6 percent. These paltry increases will not allow the advances and progress in the cancer center program that Congress and the public envision.

Cancer centers for the American public are the most visible manifestation of years of support of NCI. Each day as thousands and thousands of Americans make the pilgrimage to their local clinical center or to a major comprehensive cancer center, support for NCI grows. Cancer centers, whether clinical or comprehensive, are the primary way for Americans to see how their support for NCI has been translated into meaningful therapies for them.

In no way does this observation diminish the excellent, encouraging, basic research activities of NCI or other cancer laboratories. No one in Congress would argue against the absolute necessity of basic research. We support basic research and that support is unwavering.

But naturally, as a representative of the people, I have to share with you my belief that our cancer program depends singularly and solely on the will and support of the American public. As long as the American public believes that the prevention, treatment, control, and research of cancer is a worthy goal, NCI will receive significant support in Congress. Anything that we can do to increase that support and to increase the awareness of NCI's work to the public helps tremendously. In that regard, cancer centers and clinics are extremely beneficial in building support and understanding with the public. I cannot emphasize to you enough my great respect for the mission and work of cancer centers.

Of course, those sentiments merely reflect the importance of cancer centers towards building political support for the cancer program. They don't reflect the importance of cancer centers, basic, clinical and comprehensive, on a human scale. There are few things that strike more fear into the hearts of people than cancer. When the diagnosis hits, an individual is paralyzed with fear. The immediate impression after such a diagnosis is pain and certain death. Yet, slowly but surely, the shroud of mystery that surrounds cancer is being unveiled by caring oncolgists and health workers, and of course, through the leadership of NCI. The awakening of the public to the truth of cancer and cancer treatment is healthy development. Again, it will lead to greater un-

derstanding and awareness and ultimately greater support for the cancer program.

1,000,000 new cases of cancer per year. 500,000 dead. One out of every three families affected. Truly, cancer is a formidable disease.

We have made strides toward the elimination of this affliction since 1971. The considerable success that we have achieved by combining drug therapies is heartening. The successful modalities being used against Hodgkin's disease and leukemia in children, are two prime examples.

In the past decade, we have learned more about the cancer cell than in all the decades before, and the process is accelerating. We should not jeopardize the real and valuable success of of our fight against cancer by trying to fund the research, prevention, and treatment of cancer on the cheap. The price of the Bypass budget is high, but the cost of our present indifference is even higher.

Victory is neither cheal nor easy. It is time to rearrange our national priorities. In this year's budget, the Administration calls on us to "invest in the future." Where does the Administration believe we should invest. Here's its priority list: Moon to Mars Mission, 47 percent increase in 1991 budget; super-conducting super-collider, 46 percent increase in 1991 budget; Space Station, 36 percent increase in 1991 budget; research in robotics, 28 percent increase in 1991 budget; and the National Cancer Institute (what's its increase), 3.6 percent. I think it's time to invest in our people and our health.

I will do as much as I can in Congress to ensure adequate resources for NCI. But I cannot do it alone. As I have mentioned, you are critical to the success of any additional funds. Together, we must begin to increase awareness and support.

I will also continue to support the cancer center program. Clinics and centers fill an important role in the effort to obtain additional resources by allowing the public some insight into the end results of basic research and investigation.

AIR SERVICE AT GARY'S AIRPORT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. VISCLOSKY. Mr. Speaker, this year and during every session of Congress we consider a wide range of issues related to economic development, infrastructure, and access to national economic networks for local communities around our country. An important part of such access to modern economic opportunity is through our air transportation system. I want to relate an aviation and economic development success story currently underway in my congressional district.

From 1986 until June 11 of this year, the Gary Regional Airport was without commercial air service, denying people of the city of Gary and surrounding areas direct access to modern air travel. Due to the hard work and diligence of many community leaders and private citizens in northwest Indiana, this situation has now changed for the better.

On June 11, Direct Air began operations in Gary, with scheduled flights to Fort Wayne, Kokomo, Cleveland, Detroit, and Pittsburgh, providing the citizens of northwest Indiana with local access to the national air transportation system.

I am optimistic about the success of Direct Air. Since it began service in June, the airline reports that daily passenger enplanements are increasing. The Gary Post-Tribune newspaper has also reported the progress of Direct Air and I would like to include in my remarks a recent news account and an editorial from the paper that further recounts this important and positive development.

Direct Air is to be commended for its commitment to serving the residents of northwest Indiana. Additionally, Mayor Barnes of Gary should be recognized for his important efforts in bringing Direct Air to the city.

I look forward to Direct Air's success and continued development of the Gary Regional Airport.

[From the Post-Tribune, July 12, 1990]

DIRECT AIR SOARS—MORE SERVICE IN AUGUST

(By Rich James)

GARY.—It may not yet be a love affair, but Northwest Indiana and Direct Air are warming up to each other.

After the area gave the commuter airline the cold shoulder on its first day of scheduled service out of Gary Regional Airport a month ago, business has increased dramatically.

Will Davis, president of the airline headquartered in Fort Wayne, said Wednesday that he is pleased with the progress. He also said additional service will begin Aug. 1.

"We are getting a good indication people are trying us, liking us and coming back," Davis said during a telephone interview.

In the first four weeks of operation out of Gary, 114 paying customers have used Direct Air to Fort Wayne, Kokomo, Cleveland, Detroit, and Pittsburgh—especially to Pittsburgh.

Direct Air's first scheduled flight out of Gary on June 11 was canceled for lack of a passenger. There were two customers—one to Cleveland and one to Pittsburgh—the second day.

Paul Heidler, Direct Air's Gary terminal manager, said the company feels good about the 114 customers in the first month, especially since business was slow as expected the week of the Fourth of July.

"The passenger load is starting to increase," Heidler said, adding that the bulk of the customers are steel executives traveling to and from Pittsburgh.

David added, "When you start with a new service, there are a lot of unknowns. There are very strong indications of corporate use. We have to sell the corporate user."

Direct Air, which operates 11-seat turboprops, has two nonstop flights daily from Gary to Pittsburgh during the week.

Heidler said the morning departure time from Gary will change from 6:15 to 5:30 on Aug. 1 to allow businessmen to arrive in Pittsburgh at 8:10 a.m. rather than around 9 a.m.

Non-stop service to Detroit will begin Aug. 1, Davis said, adding that it is an indication that Direct Air is taking hold in Gary.

"Our next goal is to provide non-stop service to Cleveland," Davis said, adding that a starting date hasn't been set.

Davis said Direct Air's goal is to eventually move to larger airplanes.

"That's a little bit off," said Davis. "It is not in the game at this point. That's the direction we are going in."

Direct Air is the first airline to provide passenger service out of Gary since Britt Airways left the airport after a short stay in 1986.

[From the Post-Tribune, July 15, 1990]

DIRECT SUCCESS

After a shaky start, Northwest Indiana's first scheduled airline service in five years appears to have taken off.

Owners of Direct Air—a Fort Wayne-based commuter airline that started service from Gray Regional Airport last month—even have scheduled direct flights to Detroit starting in August; maybe later they'll add Cleveland. Flights to those cities now connect through Fort Wayne. Direct Air provides non-stop service to Pittsburgh.

The airline's initial success is gratifying. That is particularly true in light of the failure of the area's local steel mills to make an initial commitment to the airline.

The airline got off to an inglorious start in Gary. No passengers signed on for the first day; only two were on board the second day. Traffic picked up after that.

Although local steel officials declined to make an early commitment to Direct Air, it appears that they are now using the airline and finding its service sufficient. We hope they continue to support the airline, knowing that it adds to the quality of life in the region.

Prior to Direct Air coming, Northwest Indiana was the largest area of the state without regular service.

Direct Air's flights out of Gary Regional Airport will become even more appealing as the number of passengers increase at Chicago's two major airports. Its most likely passengers are Northwest Indiana businessmen and recreational travelers who are tired of the hassles involved in the one hour to two hours that it takes to get to Midway and O'Hare airports in Chicago.

ENVIRONMENTAL AMENDMENT TO THE DEFENSE AUTHORIZATION BILL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PORTER. Mr. Speaker, I want to inform my colleagues that it is my hope to introduce an amendment to the defense authorization bill, H.R. 4739.

The amendment would grant the Secretary of Defense the authority to transfer, at no cost to the Department, military equipment, and services for international environmental projects. The amendment provides for general conditions of management of the projects and for previous consultation with the Department of State:

SEC. . ASSISTANCE FOR INTERNATIONAL ENVIRONMENTAL PROJECTS AND RESTORATION.

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2549. Equipment, supplies, and services: international environmental projects

"(a) AUTHORITY.—The Secretary of Defense may provide equipment, supplies, and services in connection with international environmental projects, including environmental restoration.

"(b) CHARGES.—Equipment, supplies, and services may be provided under this section with or without charge or for a nominal fee.

"(c) CONDITIONS.—Equipment, supplies, and services may be provided under this section only if—

"(1) the environmental project is under the management of a nongovernmental institution in cooperation with the environmental officials of the country in which the project is carried out;

"(2) the equipment, supplies, and services can be provided within funds of the Department;

"(3) the Secretary of Defense consults with the Secretary of State; and

"(4) the table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2549. Equipment, supplies, and services: international environmental projects.".

(b) EFFECTIVE DATE.—Section 2549 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1990.

HUMAN RIGHTS VIOLATIONS IN PUNJAB

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to strongly protest the grave human rights violations that are occurring in the Province of Punjab, better known as Khalistan.

Mr. Speaker, the Sikhs deserve and should have the right of self determination. They should be afforded their basic freedoms. As a result of the Indian Government's suppression and crackdown in Punjab, it has been reported that 20,000 Sikh men and boys have been killed by extra judicial killings. I call upon the Indian Government to cease these brutal acts and to open a dialog immediately with the Sikhs in Punjab. I also call upon the Bush administration to stop their reactionary posturing and to address this issue forthrightly.

Mr. Speaker, I want to submit the following articles on the human rights violations that are occurring in Punjab for the RECORD.

[From the New York Times, May 31, 1990]

SIKH BEARS A SWORD, PRISON SCARS AND A GRUDGE

(By Barbara Crossette)

AMRITSAR, INDIA, May 26.—Along the border with Pakistan, there are many tales to tell of Punjabi villagers who risked their lives to help India provision its army for three wars between these two countries. The stories have a ring of nostalgia about them now.

On Saturday, the leader of the strongest Sikh political organization in the state said that if India went to war with Pakistan again, Sikhs—a religious minority that has been a mainstay of the Indian Army—would refuse to fight. Farms, many deserted after nearly a decade of separatist war and security sweeps, will not longer offer help, he said.

Simranjit Singh Mann, a Sikh nationalist elected to the Indian Parliament six months ago from a prison cell where he says he was subjected to physical and mental torture, also said Sikhs had been watching events in neighboring Kashmir with great concern.

"We have learned that if they suppress the Kashmiris through the bullet and the tank, they will do the same thing on the rolling fields of the Punjab, which has no forests, no place to even hide our heads," he said.

DETAINED FOR FIVE YEARS

Mr. Mann is a 45-year-old former federal police official who was detained for five years without trial on unsubstantiated charges of conspiracy in the assassination of Prime Minister Indira Gandhi in 1984. He was released after being elected to Parliament.

Mr. Mann's faction of the 70-year-old Sikh party, the Akali Dal, won 6 of 12 Punjab national parliamentary seats and has allies in several more. But he has not taken his own seat because he has been refused the right to enter Parliament with a three-foot sword.

Carrying a sword, called a kirpan, is part of the Sikh code, permitted by the Constitution. Other Sikh members have agreed to carry miniature versions, but Mr. Mann rejects this.

600 KILLED THIS YEAR

In an interview before setting out on a six-week walk around Punjab to listen to grievances and stengthen his political base in anticipation of state elections, Mr. Mann asserted that 20,000 Sikh men and boys had "disappeared" in the custody of Indian policemen and intelligence agents over the last few years.

Mr. Mann's assertions were relayed for comment to the Indian Government spokesman's office, which has not issued any reply.

Indian authorities have been reporting the deaths of several "hardcore terrorists" daily, along with a dozen or more other victims of Sikh militants, paramilitary authorities or criminals. At least 600 people have died this year in violence in Punjab, 200 in the last month.

Mr. Mann said Punjabi Sikhs, feeling that they are all regarded as separatist suspects, have become so alienated and frightened of troops and policemen that some are talking of fleeing to Pakistan, reversing the movement families made at the partition of India in 1947.

Reflecting a bitterness couched more and more frequently in religious terms over the last year in both Punjab and Kashmir, Mr. Mann mocked India's claims to the label of the world's largest democracy while two states had legislatures suspended and were under virtual martial law.

"There is democracy for the Hindus," he said. "But as for Kashmir, which is a Muslim state, and Punjab, which is a Sikh state, they refuse us. They give us strong homilies that there should be democracy in South Africa, that there should be democracy in Fiji. Whereas in their own two states they deny us the very basic democractic structure."

"Do you understand the hubris and arrogance of these people?" he asked.

Political analysts in the Punjab and in New Delhi say that the Government of Prime Minister V. P. Singh would like to find a more cooperative candidate to head a state government before allowing elections to take place in Punjab, the country's most productive agricultural state.

Mr. Mann has many critics, among them armed separatists who fault him for clinging to the democractic system and traditional politicians who see him as a latecomer to politics who lacks a coherent political philosphy, but his party remains more popular than any other and it is apparently for that reason that the Government in New Delhi has postponed state elections.

Less than a decade ago, before he left Government service to protest New Delhi's armed response to Sikh militancy, Mr. Mann was a high-ranking federal police official in charge of some of India's most sensitive nuclear and petrochemical installations in five Western states around Bombay. But years in prison have left him bruised and subdued.

PRISON AGONY RECOUNTED

Through five years in prison, he suffered mental and physical torture, he said. He was confined with insane criminals, forced to watch hangings, beaten, subjected to the agony of having his beard pulled out in tufts, and wired to an electric-shock machine he said he recognized as Soviet by its Cyrilic markings. He took off his shoes and socks to show his blackened, dead toenails.

"If the blood pressure gets too much, then it stops the shocks," he said. "They have perfected torture to such an extent—Russia and India—that they made torture humane."

"They used every method to humiliate me," he said. "They wanted to teach the Sikhs a lesson because I was the seniormost officer in their service who had challenged in writing their misdeeds in Punjab."

His specific allegations of torture were among the charges conveyed to the Government spokesman without drawing comment from him.

"Law enforcement in India has become primitive," Mr. Mann said. "Fifty people are killed in the streets of Kashmir because there are no procedures for stopping a riot, for dealing with crowds. They just go for the kill."

[From the New York Times, July 4, 1990]

INDIA PUTS NEW RESTRICTIONS ON VISITS BY AMNESTY TEAMS

NEW DELHI, July 3 (Reuters).—India, amending a recent Government announcement, said today that Amnesty International representatives could enter the country only for private visits and meetings with Government officials, but not for investigations.

Last week the Government had said it was completely lifting a six-month-old ban on visits by the London-based human-rights organization.

Members of the United States Congress urged Prime Minister Vishwanath Pratap Singh in a letter last month to allow recognized human-rights organizations to visit Punjab and Kashmir states to investigate reported excesses by security forces battling separatist militants.

THE SECRET MASSACRE OF SRINAGAR—A SURVIVOR DESCRIBES HOW INDIAN TROOPS SLAUGHTERED BYSTANDERS AND DEMONSTRATORS ALIKE

WASHINGTON, DC, February 16.—A United Kingdom newspaper, The Independent on Sunday, ran a story entitled "The secret massacre of Srinagar (copy enclosed)." Tony Allen-Mills, the author, interviewed Farooq Ahmed, in a hospital in Srinagar where he was recovering from six bullets received after India's Central Reserve Police Force (CRPF) opened fire on him during a Kashmiri nationalist demonstration.

Farooq Ahmed was not even part of the demonstration, he is a mechanical engineer who just happened to be watching fellow

Kashmiris rallying peacefully for independence from India.

"They [CRPF] should have given a warning, telling people to go back to their rooms. But there was no warning, so people thought the procession was allowed. Then there were two shots in the air, and more shots, shots, and shots—people were falling down . . . . The CRPF took control of the area," said Ahmed.

"There were a lot of dead and injured," Ahmed continued. "But I was safe, no bullet. Then came somebody [sic], they said I was still alive, and that fellow, an officer, came with a Bren gun, a light machine-gun. He aimed at me and started firing." Ahmed described how the bullets miraculously missed his head and mostly hit his extremities. Ahmed further described how Indian troops moved through the dead and dying Kashmiris firing at those still alive.

"If they saw movement, a leg or a hand or a head, they would fire again and again. They were saying: 'So you want Pakistan, you want independence? Go and have independence!' " Mr. Ahmed cocked his finger and mimicked the sound of a pistol. "Shoom! Have independence. Shoom! And I saw one boy under a stall . . . and that fellow came and fired there at that boy."

Dr. Gurmit Singh Aulakh, President, Council of Khalistan, representing the Sikh freedom movement worldwide, was hardly surpised by what Mr. Ahmed went through: "Farooq Ahmed's story is typical of the programs that the Indian government has been engaging in over the past six years."

"What the Indian government has been doing in occupied Khalistan, the Sikh homeland, it has now unleashed in Kashmir as well," stated Aulakh. "The new regime, under V.P. Singh, is clearly bent on destroying the Sikh and Kashmiri independence struggles through the wholesale slaughter of our respective populations."

"Since 1984, over 80,000 Sikhs have been killed by Indian security forces, over a quarter million security and military personnel are within Khalistan. I fear for my Kashmiri neighbors to the north, Indian presence in that region has already resulted in the death of about 300 Kashmiris in the past month."

Aulakh continued, "In light of Farooq Ahmed's harrowing experience, it is clear why Indian authorities have imposed a press ban in Kashmir, a press clampdown has been imposed in Khalistan since 1984."

Aulakh concluded by declaring, "I publicly challenge Prime Miniser V.P. Singh to prove to the world that India's claim as 'the world's largest democracy' is correct—open the borders of Khalistan and Kashmir to Amnesty International and other human rights groups who have been denied access to India since 1978; lift the repressive press ban in Khalistan and Kashmir; remove the Indian military presence in Khalistan and Kashmir; release the 15,000 Sikhs currently languishing in prison, none of whom have been charged, tried nor given legal counsel; divulge the names of the tens of thousands of Sikhs and Muslims killed by Indian police and security forces and offer fair compensation to their families; and lastly, I challenge V.P. Singh to honor the United Nations Resolution calling for a plebescite in Kashmir granting the people of Kashmir the opportunity to exercise their God given and democratic right to self-determination."

[From the Independent on Sunday, Jan. 28, 1990]

THE SECRET MASSACRE OF SRINAGAR

(Tony Allen-Mills spoke to a victim of army action in the captial of Indian Kashmir)

Farooq Ahmed winced as he held the X-ray to the light. His right arm was in a sling, his left shoulder swollen with bandages. The X-ray showed the two bones of his forearm with the unmistakable shape of a bullet nestling beside them. "They took it out yesterday," he said. "Another one went through here." He pointed to a bloody dressing on his bicep. "The others grazed my shoulder. The doctors told me there were six altogether. It was lucky I managed to duck."

A 38-year-old mechanical engineer in service with the local government of Kashmir, Mr. Ahmed claims to have survived a massacre of Muslim civilians who were caught in the crossfire when two lines of Indian police opened fire on a Kashmiri nationalist demonstration in central Srinagar last Sunday. He said that officers of the Central Reserve Police Force (CRPF)——the paramilitary unit mobilised by the central government at times of regional rebellion—executed wounded Muslims as they lay bleeding in the street.

There have been many allegations of atrocities during the past few months of separatist upheaval in India's only Muslim-majority state. Many have been inflated. But, educated at university in Srinagar and with a gold medal for meritorious work, Mr. Ahmed is no militant subversive. Other wounded patients at Srinagar's Bone and Joint Hospital confirmed principal aspects of his account, which I tape-recorded at his bedside on Thursday night.

"I was just standing watching the procession [of Muslims demonstrating against India]," he said. "It was curfew time and there were CRPF on both sides of the lane. They should have given a warning, telling people to go back to their rooms. But there was no warning, so people thought the procession was allowed. Then there were two shots in the air, and more shots, shots, and shots—people were falling down. I also fell down. Someone pushed me down. The CRPF took control of the area. There were a lot of dead and injured. But I was safe, no bullet. Then came somebody, they said I was still alive, and that fellow, an officer, came with a Bren gun, a light machine-gun. He aimed at me and started firing."

Mr. Ahmed leaned back on his pillow and grimaced. "I was fortunate, my back was just touched. Six bullets, kat-kat-kat-kat-kat-kat. But my head was safe, I was conscious also. I saw the bridge was completely full of dead bodies." He also saw policemen moving among the bodies, firing further shots at the injured. "If they saw movement, a leg or a hand or a head, they would fire again and again. They were saying: 'So you want Pakistan, you want independence? Go and have independence!' " Mr. Ahmed cocked his finger and mimicked the sound of a pistol. "Shoom! Have independence. Shoom! And I saw one boy under a stall * * * and that fellow came and fired there at the boy."

The engineer estimated that he lay bleeding for 45 minutes before a lorry came to take away the dead. "Another fellow came to kill me, because he said I was still conscious, but the old ones told him, don't fire, don't waste your bullet, he is going to die very soon. So he left me like that. It was God's grace."

When the lorry arrived, Mr. Ahmed was taken for dead and dumped in the back on a pile of corpses. "I saw they were throwing some dead bodies in the river. There were a lot of dead bodies hanging on the fence, because there was chaos, people running here and there, and some of them wanted to throw themselves in the river for safety. But they died when their bodies fell on the fence."

Eventually the police put a tarpaulin over the bodies in the lorry. It was driven to the central headquarters of the local Kashmir state police, many of whom are Muslims deeply resentful of the activities of the CRPF. When the tarpaulin was moved, one of the supposedly dead bodies gave a cry, and eventually four or five people, Mr. Ahmed among them, were found to be alive and taken to hospital.

Pressed on massacre allegations at a press conference earlier last week, Kashmir's new government-appointed Governor, Mr. Jagmohan, said he had no information about bodies floating in the Jhelluni river.

INTERNATIONAL COMMUNITY WATCHING WITH SKEPTICISM—WILL INDIA ALLOW AMNESTY IN TO INVESTIGATE HUMAN RIGHTS VIOLATIONS?

WASHINGTON, DC, July 6.—Only days after agreeing to let Amnesty International within its borders to investigate human rights violations, India has rescinded, claiming that the organization was invited only for talks in New Delhi and not to investigate atrocities in Punjab and Kashmir.

This new development comes at a time when India, trying to quell the demand for freedom by Sikhs in Punjab and Muslims in Kashmir, seeks to conceal its abominable human rights record from the rest of the world.

Today India declared Kashmir a "disturbed area" according to "The Washington Post" and "The Washington Times". Now the police are legally given the power to shoot-to-kill.

Rajiv Gandhi, leader of the opposition party has told students, "Take to the streets, stage a sit-in at the airport, but on no account should you let Amnesty International investigators to enter the country." As former Prime Minister, Mr. Gandhi has a vested interest in keeping human rights monitors from investigating India. He knows full well the atrocities those under his command have committed against Sikhs. Under the new V.P. Singh regime, Mr. Gandhi's death squad apparatus is still intact and the number of extrajudicial killings by police in Punjab have increased since Mr. Singh took power.

As "The New York Times" reports (May 31, 1990), 20,000 Sikh men and boys have been killed by Indian police in extrajudicial killings in the last few years.

Indian forces even opened fire on Muslim mourners attending the funeral of religious leader, Maulvi Mohammed Farooq, killing at least 150 and injuring over 400.

Though India likes to call itself "the world's largest democracy," it seems that liberty is reserved only for upper caste Hindus Sikhs, Muslims, Christians and lower caste Hindus are not to be included in this "democracy." In India it is against the law to even speak of Khalistan, the free and sovereign Sikh homeland. According to The Terrorist and Disruptive Activities Act (TADA) of 1987, if you are a Sikh and you question, "Whether directly or indirectly, the sovereignty and territorial integrity of

India, you are subject to arrest including torture and, all too often, death. What kind of democracy denies the basis right of free expression?

Major General Narinder Singh, Vice Chairman of the Punjab Human Rights Organization has been repeatedly denied a passport by the Indian government. What kind of a democracy denies the freedom of movement?

Over 3000 Sikhs were arrested on June 6, 1990 as they tried to make their way to their own Golden Temple to pay homage to those Sikhs who died there in the June 1984 Indian Government attack on the shrine. Among those arrested were, again Major General Narinder Singh; Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization; Bhai Manjit Singh, leader of the Sikh Student Federation; and two Members of Parliament, Simranjit Singh Mann and Bimal Kaur Khalsa. What sort of a democracy prevents people from entering their own place of worship?

Retired army major, Baldev Singh Ghuman was gunned down in front of his home on June 28, 1990 by plain clothed Indian agents driving unmarked cars and armed with automatic weapons. What kind of democracy kills its own army veterans?

Sikh Member of Parliament, Simranjit Singh Mann was just recently released from an Indian prison after five years of torture which included electrical shocks being applied to his genitals. What kind of democracy tortures political prisoners for five years, detaining them without trial and without bringing charges against them.

Apparently India has quite a bit to hide from Amnesty International. The world, however, is beginning to realize the despotic character of the regime. Through desperate measures like Mr. Gandhi's most recent fiasco, the international community grows more and more skeptical.

The Sikh demand for Khalistan, a sovereign Sikh homeland free from the tyrannical hand of the Indian government is gaining international support. Congress is pushing through legislation to pressure India to allow Amnesty International into Punjab and Kashmir to investigate the human rights violations. India is being exposed. Freedom is the God-given basic human right of every individual and nation and Sikhs will no longer live under Indian oppression. Sikhs declared their independence from India on October 7, 1987, naming the new nation Khalistan. This declaration of independence is irreversible, irrevocable and nonnegotiable.

SIKH LEADER DENIED PASSPORT—POLICE OPPRESSION AND THE VIOLATION OF HUMAN RIGHTS IN PUNJAB

WASHINGTON, DC, June 26, 1990.—Retired Sikh General of the Indian army and current Vice Chairman of the Punjab Human Rights Organization, Maj. Gen. Narinder Singh (Retd.) has been denied a passport by the Indian government despite repeated request.

"This is not such an uncommon incident in Punjab," says Dr. Gurmit Singh Aulakh, President of the Council of Khalistan which represents the Sikh freedom struggle worldwide. "The Indian government has a vested interest in restraining those who have witnessed first hand the gross human rights violations Sikhs in Punjab suffer at the hands of the so-called 'world's largest democracy.' The last thing Prime Minister V.P. Singh wants is for someone as respected as Maj. Gen. Narinder Singh to travel abroad and speak the truth so he keeps him at home. If the Indian government can keep Sikh leaders relatively unknown to the outside world then it will not have to suffer the same embarrassment it suffered when Indian security forces assassinated the Muslim religious leader, Mr. Farooq. I fear that Maj. General Narinder Singh's life is in grave danger and I warn V.P. Singh to be cautious because Sikhs will no longer sit by and watch their leaders be gunned down."

Though Sikhs worldwide had originally hoped that V.P. Singh's new government would put an end to the genocidal policies of the Gandhi regime the reality has been quite the opposite. "Not only are we being denied passports," says Dr. Aulakh, "but there are at least 20 to 30 Sikhs killed every day in extrajudicial killings. The atrocities have actually increased under V.P. Singh. The police and the Indian security forces have a license to kill in Punjab. And some people dare to question why we demand freedom."

Outside reports confirm Dr. Aulakh's outrage. "The New York Times" reported on May 31, 1990 that "at least 600 people have died this year in violence in Punjab, 200 in the last month." At the same time, "20,000 Sikh men and boys had 'disappeared' in the custody of Indian policemen and intelligence agents over the last few years." It is not so much of a mystery, therefore, to understand why India is the only so-called democracy in the world which does not allow Amnesty International within its borders to investigate human rights abuses.

Other Sikh leaders experience the humiliation and the persecution that Maj. Gen. Narinder Singh has suffered as well. On June 5, 1990, armed Indian security forces prevented Sikhs from all over Punjab from gathering in commemonration of the June 1984 Golden Temple attack by the Indian government which killed over 20,000 Sikhs. Among the over 300 arrested for attempting to pay tribute to the dead were Maj. Gen. Narinder Singh; Members of Parliament Simranjit Singh Mann and Bimal Kuar Khalsa; Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization; and Bhai Manjit Singh, leader of the Sikh Student Federation. These men were not informed concerning under what charges they were being arrested because they had done nothing even remotely illegal. They were, nevertheless, detained for three days as police filed false reports to legalize the arrests. The Punjab Human Rights Organization has issued a statement to expose the concocted false case registered against the Sikh leadership.

"This is the way the Indian government operates," protests Dr. Aulakh. "We are being killed. The Indian government does not even allow the most respected Sikhs the freedom of movement. When they deny General Narinder Singh a passport they are even worse than the Soviet Union. Khalistan, a free Sikh homeland is what we need, not promises that the atrocities might end if we behave like the docile, obedient slaves that the Indian government wants us to be. We want simply to live as humans have the right to live and this is why the Declaration of Independence of Khalistan is irrevocable, irreversible and nonnegotiable."

TRIBUTE TO THE LATE SEAN FRANCIS HUGHES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. TORRICELLI. Mr. Speaker, I rise today to share a sad note with the Congress of the United States. Today our Nation joins in mourning the loss of a valued and significant leader from Great Britain, the Honorable Sean Francis Hughes, Member of Parliament.

God's taking of this young, vibrant man is not only a loss to his lovely wife, Trisha, to his family and friends, it is not only a loss to the United Kingdom, but it is a loss to all public servants around the globe. For whenever someone of such rare and inspiring quality fails, especially so prematurely, all of us who fight for peace, justice, and betterment of humankind suffer too.

To those who knew him he was an erudite, studied, and insightful young leader. And most importantly, he grasped history's significance to our modern world and applied its lessons to the challenges and conundrums of today. He was respected as a critical thinker at this critical time of Europe's history.

To his neighbors and constituents, Sean Hughes, MP, was a compassionate, sensitive man. He sat and listened to their problems at endless surgeries and diligently worked, along with his staff, to bring relief. He had such a personal hand in the resolution of so many people's problems.

It would have been easy to relish the power and pomp of Parliament, but Sean Hughes always remembered that the public servant's greatest call is to be a voice for the voiceless and a help to the helpless.

To his friends he will be a fond memory of wit and wisdom. He will be remembered as a giving, caring man who spared no expense or effort for a friend. He was a model of what public service is all about. Sean Hughes brings to mind the words at the entrance of the John F. Kennedy Library, which is "dedicated to all those who through the art of politics seek a new and better world."

Ralph Waldo Emerson, the great American poet, wrote that to "leave the world a bit better, whether by a healthy child, a redeemed social condition, or that one life breathe easier because you lived—this is to have succeeded." By his beautiful and only child, Charlotte, by his tireless pursuit of peace, and through his constant concern for others, Sean Hughes was a clear and genuine success whose noble life will always remain a model for all.

Now we will carry on his fights, for peace, for social improvement, and so much more, holding true to his high principles and always remembering his fine example.

PRAISE FOR A DEDICATED COLLEAGUE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McEWEN. Mr. Speaker, today I rise to direct your attention—and that of our colleagues—to a recent news column that appeared in the Sunday, July 29, 1990 edition of the Dayton Daily News. This story profiles one of the most dedicated, hardworking Members of this distinguished body, and one whom I am proud to call a personal friend, my fellow Ohioan TONY HALL.

In the article, which I am submitting for the RECORD, Daily News reporter Tom Price alerts readers to TONY's solid record of accomplishment and growing influence in the House of Representatives, which of course we already know well. The story focuses on our colleague's unchallenged status as this Chamber's most tireless and effective warrior in the fight to end hunger in America and around the world. To this battle, TONY brings formidable weapons: great intelligence, unusual compassion, legislative dexterity and extraordinary leadership ability.

As chairman of the Select Committee on Hunger, TONY is our chief architect of policies and legislation which seek to eliminate hunger at home and abroad. The Daily News article details some of his recent achievements in this important effort, and I invite you, Mr. Speaker, and our colleagues, to take a moment to read this accurate profile of a fellow Member whose vision and hard work reflect an uncommon devotion to our fellow man. Thank you, Mr. Speaker.

IF HUNGER'S THE ISSUE, HALL'S NO. 1 IN THE HOUSE

WASHINGTON.—Michael Gessel, U.S. Rep. Tony Hall's longtime press secretary, has been in the best position to witness the recent rapid growth of the Dayton Democrat's political stature.

"From my perspective, there is a radical change in going from courting the news media on issues that Tony cares about to being courted by the news media." Gessel said.

"Before Tony was chairman of the Hunger Committee, he worked very hard on a lot of hunger and human-rights issues that were very dear to him, and it was pulling teeth to get reporters for the national media to take notice. Now they will call him to get his comment, to find out what he knows about Angola or Ethiopia or to find out what's happening with WIC," the federal nutrition program for women, infants and children.

National news coverage isn't the only evidence that Hall has established himself as the House's leader on the hunger issue. Other lawmakers, administration officials, anti-hunger activists and representatives of foreign governments regularity seek Hall's support, turn to him for advice and responds to his proposals.

Last Tuesday, for instance, the director of the U.S. Foreign Disaster Assistance Office visited Hall to report on a snag in the delivery of food to starvation-threatened Ethiopians and to seek Hall's public denunciation of the Ethiopian rebels who blocked the assistance.

Wednesday, a crew from the Public Broadcasting Service's MacNeil-Lehrer Newshour came to Hall to tape a lengthy interview about the WIC program.

Thursday, Ethiopia's foreign minister stopped by to repeat his government's support for the joint U.S.-U.S.S.R. relief effort that Hall helped put on the table at the recent Bush-Gorbachev summit.

The week before, Angola's U.N. ambassador met with Hall about famine.

The month before, Hall's legislation to increase WIC funding passed the House and Senate within less than a week of its introduction—an astounding speed.

The New York Times reported that "passage of the (WIC) bill largely reflects the work of Rep. Tony P. Hall." Nutrition Week, a specialty publication, wrote such glowing praise of Hall's accomplishment with the bill that Hall felt compelled to send the editor a letter noting the contributions of two other House members.

Image has great impact on substance in Washington, and Hall is caught in the reverse of a vicious circle—call it a virtuous circle.

Hall has labored in the anti-hunger movement since soon after his election to Congress in 1978. He was instrumental in creating the Hunger Committee in 1984 and chaired its International Task Force.

His image was enhanced by his promotion to Hunger Committee chairman last year, following the death of Texas Democrat Mickey Leland in an Ethiopian plane crash. The enhanced image enhanced his effectiveness, and each of his accomplishments has enhanced the image—and the effectiveness—some more.

Hall has enjoyed more insider influence than the average House member since 1981 when he joined the Rules Committee, which sets the procedures for House consideration of almost every piece of legislation. Now he also attends the regular meetings that the speaker has with the committee chairmen. House members turn to him for leadership on hunger issues. And he has developed effective working relationships with the senators who have the most authority over nutrition matters.

In repairing passage of Hall's WIC bill, the Times said the Hunger Committee "has no formal legislative authority, but serves as the conscience of Congress on food and nutrition issues."

Nutrition Week said Hall's accomplishments are "giving notice that hunger and malnutrition issues will have good leadership in Congress."

KUWAIT AND IRAQ'S TERRITORIAL ASPIRATIONS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McCOLLUM. Mr. Speaker, tensions in the Persian Gulf have once again escalated. News reports this morning indicated that Kuwait has been invaded by Iraqi troops. Because the possibility of further conflict seems likely, I would like to present the following article to my colleagues. It is a piece written by my chief of staff, Vaughn Forrest, and the director of the Task Force on Terrorism and Unconventional Warfare, Yossef Bodansky. This will hopefully provide a timely analysis of the history of the struggle in Kuwait:

KUWAIT AND IRAQ'S TERRITORIAL ASPIRATIONS

Saddam Hussein, with his transfer of an additional 30,000 troops to his force concentrations on Kuwait's border with Iraq, has once again demonstrated the volatility of the Persian Gulf oil region. However, Saddam Hussein's threats to Kuwait alleging excessive oil poduction and price reduction are little more than a smokescreen concealing the revival of Iraq's long standing claims to sovereignty over the oil rich emirate. Indeed, at present, the control over Kuwait's harbor installations constitutes a key to Iraq's designs to become the dominant naval power in the Persian Gulf. This is a sacred objective of Saddam Hussein, and the current Kuwaiti-Iraqi crisis is a major development in relations that have already been characterized, on the one hand, by Iraqi extortion and saber rattling and, on the other hand, by Kuwaiti subservience and repeated payments of blood money.

Officially, Baghdad has a historic claim over the territory of Kuwait. In the 19th century, the area currently called Kuwait was part of the "vileyat" of Basra, then under Ottoman rule. At the same time, however, the ruling sheik was invested with a quasi-autonomous rule by the Porte. This loose arrangement enabled the sheik to sign an Exclusive Agreement with Great Britain in 1899 that opened the door to the building of British hegemony in the Persian Gulf.

After the collapse of the Ottoman Empire at the end of the First World War and the establishment of British rule over Iraq and the Gulf Sheikdoms, London moved to consolidate Kuwait's unique position. In 1923, an Iraqi-Kuwaiti border agreement was imposed on the Kuwaiti Emir and the British-installed King of Iraq. This border demarcation, that includes vast no-man's land sectors, was recognized by Baghdad in 1932 and still constitutes the Iraqi-Kuwaiti border.

Nevertheless, since the 1958 revolution that toppled the monarchy, Iraq has never ceased to reiterate its claim on Kuwait. Indeed, the Iraqi demands to annex Kuwait increased as Kuwait's oil wealth became increasingly apparent. However, as long as Kuwait had the Exclusive Agreement with the United Kingdom, Iraq was reluctant to escalate its demands into an armed confrontation for fear of British military intervention as stipulated under the 1899 Agreement.

However, on 19 June 1961, at the Emir's initiative, Kuwait and the United Kingdom signed an Exchange of Notes that cancelled the 1899 Agreement. On 25 June 1961, less than a week later, Iraqi Prime Minister, Abdul Karim Qassim, announced Iraq's intentions to annex Kuwait. Concentrations of Iraqi forces along the border began the very next day. Kuwait immediately requested the redeployment of British forces and the crisis was averted after a few border clashes. Soon afterward, however, Kuwait also provided Iraq with the first of many huge no-repayment-needed "loans."

Kuwaiti-Iraqi relations somewhat improved in the mid-1960s in direct relation to the size of Kuwaiti loans. However, Iraq became bolder in its demands after the British 1968 withdrawal from east of the Suez. At this stage, Baghdad's aspirations began to be motivated also by wider strategic considerations.

Soon after the April 1972, signing of the Soviet-Iraqi Treaty of Friendship and Coop-

eration, the USSR began expanding the naval base in Umm Qasr and Soviet Navy vessels began operating from that base. Emboldened by the Soviet military presence and strategic commitment to the Persian Gulf, Baghdad decided to become a regional naval power. Thus, the border dispute with Kuwait was revived in late-1972, with Iraq's renewed demands for control over Kuwait's territory. In early-1973, these demands were reinforced by large-scale Iraqi troop concentrations on the Kuwaiti border.

The Iraqi objectives were fully articulated in an ultimatum delivered to Kuwait. Soon afterward, in March 1973, a Kuwaiti delegation travelled to Baghdad and signed a draft treaty with Iraq whereupon Kuwait undertook upon itself to grant Iraq the right to build and operate diversified oil installations and strategic infrastructure, including harbors and airfields, on Kuwaiti territory in an extra-territorial status. Iraq also secured the right to unilaterally engage the services and assistance of a third party, which was to be the Soviet Union, to implement the projects with this party having the same extra-territorial rights.

Subsequently, Iraqi forces invaded Kuwait on 20 March 1973, virtually at the moment the Emir of Kuwait rejected the draft treaty. To repeated inquiries of the Arab League, Iraq asserted that it was merely liberating Iraqi territory and that the Iraqi-Kuwaiti border had no validity. The Iraqi forces unilaterally withdrew from Kuwait in early-April only after Soviet pressure and specific military and naval guarantees delivered by Admiral Sergei Gorshkov, who rushed to Baghdad to smooth the crisis. The unilateral moderation of Iraq's position was also helped by yet another huge "loan" from Kuwait. However, this arrangement did not prevent Iraq from renewing, as early as April 1973, its demands for Kuwait's Bubiyan and Warbah islands in the Persian Gulf.

After the Ba'ath coup of 1973, Saddam Hussein, who was then vice-president, claimed a more "moderate and realistic" position on the Kuwaiti issue. However, he still insisted on the validity and historic justness of Iraq's claims on Kuwait. Little wonder that Kuwait continued to pacify Baghdad with strong financial and political support. Indeed, in the early-1970s, during Iraq's negotiations with Iran toward the Shatt-al-'Arab Agreement of 1975, Kuwait pressured Washington to tilt toward Iraq's position.

The extent of Kuwait's desperate efforts to appease Baghdad became most apparent during the Iran-Iraq War. Throughout the war, Kuwait was one of Iraq's staunchest allies. It provided Iraq with a safe outlet for its oil, and later even sold its own oil on Iraq's behalf in return for promises of post-War reimbursement. Kuwait contributed directly to Iraq's war effort, and Iraq enjoyed free harbor and transportation services for the delivery of war material, weapons from Kuwait's own stockpiles and foreign orders, as well as the sharing of intelligence Kuwait had received from the US. In addition, Baghdad received at least $4 billion in "loans." No less important was Kuwaiti pressure on the West, and especially on Washington, for a policy tilt toward Iraq. This was ultimately expressed in the reflagging of Kuwaiti tankers and US Navy operations against Iran in the wake of an Iraqi Mirage F.1 attack on the frigate USS Stark.

In retrospect, Kuwait's all out commitment to the Iraqi war effort is the source of its current plight. The war with Iran demonstrated the vulnerability of Iraq's outlet to the Persian Gulf. The harbor facilities in Basra were shelled to destruction and the strategic naval base in Umm Qasr' was repeatedly threatened by Iranian offensives. Baghdad became apprehensive about its growing dependence on Kuwait Harbor for the vital flow of logistical support, which became increasingly evident during the war.

Saddam Hussein knows that for Iraq to be able to dominate the Persian Gulf, it must have extended and safe harbor facilities from which to operate a large Navy. Kuwait has the best harbors in the upper Persian Gulf and thus it is imperative for Iraq to control them in order to dominate the Gulf.

Furthermore, Saddam Hussein has nothing to lose in this crisis. Iraq's proven military power would crush Kuwait within a very short time. Indeed, Iraq's strategic might—ballistic missiles with incendiary, chemical and biological warheads—would suffice to deter any determined Arab effort to save Kuwait. Short of symbolic gestures, there is very little the US can actually do for Kuwait. Moreover, even US access to military installations in the Persian Gulf area would become uncertain once Iraq delivered an ultimatium or a threat. Indeed, Iraq might then finally occupy Kuwait, though it is more likely that Baghdad would settle on a far reaching compromise involving a degree of hegemony over Kuwait, with Iraqi control over, and access to, Kuwait's strategic infrastructure, and generous financial settlement of Iraq's outstanding debts and current shortages of cash.

The U.S.S.R. would tacitly rejoice in any crisis that would divert attention from the Iran-Iraq confornation, as it would facilitate Moscow's solidifying its strategic cooperation with Iran while gaining Iraq's acquiescence by supporting its adventures. In the case of a political settlement, Moscow may even emerge as Kuwait's savior, thus establishing itself as the Persian Gulf's dominant power (the "supreme arbiter" in Islamic political culture).

Thus, once again, the cross currents of international conflict have come together in the Persain Gulf and have set the stage for the acting out of long standing historical disputes. As Santanaya once said, "Those who forget the past are condemned to relive it."

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

THE 43D ANNIVERSARY OF INDIA'S INDEPENDENCE TO BE OBSERVED IN JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GUARINI. Mr. Speaker, on August 17, 1990, ceremonies will be held at City Hall in Jersey City marking the 43d anniversary of India's independence. India gained its independence from Great Britain on August 15, 1947, and became a dominion following endorsement of a plan to partition the subcontinent by the Moslem League and the All-India Congress. We all recall that Jawaharial Nehru became the first prime minister of Hindu India. Nehru, a close associate of Mahatma Gandhi, proclaimed that day:

"It is a fateful moment for us in India, for all Asia and for the world. A new star rises, the star of freedom in the East, a new hope comes into being, a vision long cherished materializes. May the star never set and that hope never be betrayed!"

In my district, upward of 15,000 Indo-Pakistani reside. They are industrious, hard-working individuals who are adopting the American way of life while proudly clinging to their rich heritage. These peaceful productive individuals have strong family ties and are full of ambition to succeed in many areas, especially business and education.

I have been privileged on many occasions over the years to be a guest of honor at some functions, including one at Madison Square Garden where 3,000 Indo-Americans gathered at a cultural event. It was indeed an inspirational sight.

India, of course, means so much to us because of the great contributions to mankind that Mahatma Gandhi gave to all. He was a relentless champion of human dignity and human rights, calling for equality for people of all races and nationalities, women and minorities. We will recall that his unshakable faith in the power of nonviolent struggle inspired the work in the civil rights movement we witnessed under the leadership of Dr. Martin Luther King.

Ghandi fervently and strongly supported the position that no society can be built on denial of individual freedom and "that the purification of politics requires the removal of the taint of the double standard by men of courage and integrity." Gandhi long preached truth and justice and proclaimed that:

"Truth is like a vast tree, which yields more fruit the more you nurture it. The deeper the search in the mine of truth, the richer the discovery of the gems buried there in the shape of openings for an ever greater variety of service."

"Truth quenches untruth. Love quenches anger, self-suffering quenches violence. This eternal rule is a rule not for saints only but for all."

In my district, Indo-Americans are making their mark in the professional fields of medicine, accounting and law. They are purchasing small businesses and opening restaurants. The children of this community show their competence by their matriculation in local schools and colleges.

It is in the area of education of our young people that Indo-American children seem to succeed, judging from the announcements in the local press of the valedictorians of high schools in our area. Their efforts are indeed paying off.

In Jersey City, on August 19, an Indian flag will be hoisted over City Hall by Mayor Gerald McCann, proclaiming the week of August 15 as India Independence Week. Mayor McCann, by proclamation, is also renaming Journal Square for the week.

In Jersey City, leaders of the Indian community are Hardyal Singh, who is president of the International Mahatma Gandhi Association, and is joined by Mono Sen, a community leader, and Manoj Patel, an attorney.

Hardyal Singh serves as a Jersey City Human Rights Commissioner, is a member of the New Jersey State Advisory Committee for Consumer Affairs, and is founder and President of the Indo-Pak Friendship Association, and is a leader at local, State and Federal levels in the Indo-American Associations, promoting racial harmony between the people of both India and the United States. I am indeed proud that the flag-raising ceremony over City Hall is the first of its type in any city in the United States.

I am sure that my colleagues here in the House of Representatives wish to join me in congratulating the Indian Community in this, their sixth annual ceremony.

THE CALIFORNIA HISPANIC CHAMBER OF COMMERCE TO HOLD 1990 STATE CONVENTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MILLER of California. Mr. Speaker, for the past 8 years the California Hispanic Chambers of Commerce have conducted Statewide conferences to promote excellence and a positive image for the entire Hispanic community. Today, I am honored to announce that the Hispanic Chamber of Commerce in my district of Contra Costa County will host the Ninth Annual State Convention in the city of Concord, CA, on August 22–26, 1990.

In order to emphasize the importance of leadership, the Chambers have specifically titled the convention "Hispanic Leadership: Gateway to Success in the 90's." Encouraging community participation has been made a top priority by the Chambers and deemed essential to the development of future Hispanic businesses and leaders.

The California Hispanic Chambers of Commerce was organized in the early 1980's as business leaders realized the potential of the Hispanic community and the need for structured representation. Unity and dedication enabled the community to successfully formalize a program to develop a business network promoting Hispanic interests in both the public and private sectors, and to create a positive environment for Hispanic businesses. In addition to these goals, the Chambers also provide successful role models for its youth to encourage pride through leadership.

Hispanics are the fastest growing population group in the United States, and within the next decade they will become the largest ethnic group in the State of California. Hispanic businesses will continue to expand beyond the present 400,000 and will grow to be a national influential and economic force.

I want to take this opportunity to extend my best wishes to the California Hispanic Chambers of Commerce for a very productive convention. I am particularly proud that the Contra Costa Hispanic Chamber will host the convention, and offer them all my full support for success in this endeavor.

ALBERT BERKOWITZ: GRANVILLE, NEW YORK COMMUNITY LEADER FOR SIX DECADES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLOMON. Mr. Speaker, I'd like to tell you about a rather extraordinary man.

Sunday, September 16, 1990, will be "Berky Day" in Granville, NY. Berky is what everybody calls Albert Berkowitz, who has been a living institution in that upstate community for the better part of six decades.

Mr. Berkowitz has been practicing law in Granville since 1933. Since that time he has also been a town justice, village justice, Washington County district attorney, and New York State senator.

But his record of service goes far beyond the offices he has held. In my opinion, a great American is one who gives abundant time to the community above and beyond the time required in his profession. By that standard, Albert Berkowitz is a great American indeed.

He helped form the first youth commission in the State of New York, and served as its chairman for more than 50 years. He has been an active force with Rotary.

He also has been a member of the Washington County Children's Committee, Boy Scouts, Red Cross, Chamber of Commerce, Little League, March of Dimes, and Salvation Army. And, a special point with me is his service as a volunteer fireman.

Albert Berkowitz, acting with the Parent Teacher Association, was a driving force in encouraging community youth to further their education.

Mr. Speaker, let us have our own Berky Day today in tribute to this exceptional, civic-minded man. I ask all members to rise and to join me in saluting Albert Berkowitz of Granville, NY.

PRESIDENTIAL DIRECTIVES AND RECORDS ACCOUNTABILITY ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CONYERS. Mr. Speaker, today I am introducing, on behalf of myself and Mr. BROOKS, my predecessor as chairman of the Government Operations Committee, the Presidential Directives and Records Accountability Act.

This bill would regulate the issuance of national security directives and bring them under more control and public accountability.

NSD's, or NSDD's [National Security Division Directives] as they were known in the prior administration, although they form a significant body of national law and policy, are now cloaked in secrecy. This legislation would bring them out of the closet, at least to a limited extent.

If the President issues an executive order or other proclamation, that directive must be registered pursuant to the terms of the Federal Register Act. However, directives such as NSDs are not covered. This bill would extend the coverage of the Federal Register Act to any Presidential directive which "establishes policy, directs the carrying out of law or policy, authorizes or requires the use of appropriated funds or other resources, including personnel, or otherwise asserts or appears to assert an authority of the President."

It is time that we once and for all put an end to the kind of secret policymaking we have seen far too much of in recent years. Under our Constitution, the Congress is an equal partner in the creation and development or national policy. However, all too often we have discovered of late that the executive branch has been carrying out policies of which Congress has not been informed, and, on occasion, contrary to the actual policies established by Congress.

Congress and the executive branch are jointly involved in an extremely important war on drugs, which affects the lives of all of our constituents. Congress' efforts in that war are the product of public debate and public scrutiny. We solicit the executive branch's input and constructive criticism of every one of our undertakings in that war.

However, the executive branch is not so forthcoming in sharing with us its activities in behalf of that war effort. It conducts the war pursuant to national security directives which to my knowledge have yet to be shared with the leadership of Congress or the appropriate congressional committees. The National Security Director, General Scowcroft, has at last conceded my right, as chairman of a relevant committee, to examine the appropriate NSD along with one majority and one minority staff member under rather onerous conditions. He will not agree to the delivery of a copy of the NSD to the Speaker of the House, as has been requested.

As noted in a report issued last year by the nonprofit organization People for the American Way, "the problem worsens when such secret laws are used as fugitive instruments for policymaking, mobilizing executive branch personnel and federal resources in ways that conflict with national policy and may violate our laws."

The Iran-Contra scandal was launched by Presidential directives not shared with Congress. A secret war was waged in Nicaragua pursuant to NSDD's for a substantial period of time before Congress learned about it.

This bill would place no restrictions upon the President's authority to establish and carry out national policy. All it would do is require that such policies be numbered and registered with the Office of the Federal Register and that copies of each such directive be transmitted to the Speaker of the House and the President of the Senate. If necessary for reasons of national security, they could be classified.

If such a practice had been in force during the decade of the eighties, Congress would have had an early warning system which might have permitted us to avoid the disastrous consequences of the failed Iran hostage policies.

AIRLINE PASSENGERS AT BOTTOM OF PRIORITY LIST

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. RITTER. Mr. Speaker, I rise today to address an important segment of our national economy, the airline industry, to offer it some strong but constructive criticism, and to recommend a course of action that can ultimately make it both more praiseworthy and more profitable.

Since Congress passed the Airline Deregulation Act in 1978, air passengers have saved $100 billion, average inflation-adjusted air fares are 20 percent lower, and 68 percent more people are flying. For millions of Americans who in 1978 had never set foot in an airplane, flying has become a routine means of travel. Every day, approximately 1½ million people take to the skies over America.

But deregulation has had its down side as well. Today, the top 8 airlines control more than 90 percent of the market, down from 15 airlines in 1984, and barriers to market entry are formidable. The eight major airlines have a virtual lock on all gate space at four of the Nation's largest airports.

Airlines have also adopted a hub-and-spoke system of operation. The airlines funnel planes into a central airport and then disperse them in spokes to dozens of cities. Where a single airline has an almost total lock on traffic and air routes, the fares are as high as 18 percent above those at all other airports.

In Kansas City, travel agents have been complaining that more people are driving the 257 miles to St. Louis now that Braniff Airlines has gone bankrupt and no longer serves the city. A fullfare, one-way coach ticket on TWA—April 1990—costs $250. A cab fare costs $231.

The lack of head-to-head competition for flights in the airline industry has led to a decline in the quality of passenger services. Without the necessary competition for air routes, or any regulatory oversight, the results are often disastrous. Let's face it, without competition in the marketplace, the airlines aren't providing decent service.

Recently, I saw a letter written to the chairman of an airline by a prominent business executive from my Congressional district. When the executive's party of four checked in at Washington's Dulles International Airport for their return flight to the A-B-E International Airport in Allentown, PA., they were told no such flight was scheduled. Yet tickets had been issued, and the flight had been advertised in Pennsylvania newspapers.

His letter expresses a sense of deep frustration that is all too common these days:

> Needless to say, we were inconvenienced and nonplussed. We also missed the luncheon I was supposed to attend—not because of mechanical failures, not because of weather delays, but because your company decided to change plans and didn't notify us.
>
> The orange insert in your ticket coupon stipulates that if we changed our plans we would be subject to a penalty and fee for changing or canceling the tickets.
>
> At the same time, the fine print in your "conditions" statement claims you cannot be held responsible for failure to operate a flight according to schedule whether or not you've given notice to the passenger. Somehow, that doesn't seem quite equitable to me; nor does it smack of a commitment to quality service. I guess I still hold you responsible.

That letter hits home. Airlines are in the business of offering scheduled service, and schedules should mean what they say. Passengers understand that some delays are beyond the airline's control, because of mechanical difficulties or bad weather. Nonetheless, airlines have an obligation to engage in realistic scheduling.

As any frequent flyer can attest, plenty of problems afflict air travel in America. Flight delays are routine and infuriating. Millions of dissatisfied consumers report lost or mishandled baggage. The DOT's report for March listed 2.55 bumping per 10,000 passengers in 1989. That's over 102,000 people bumped last year.

How many more travelers have had problems—often at extra cost and inconvenience—but neglected to complain to the airlines, either because they didn't know where or how to lodge and follow up on their complaint, or because they thought their complaints would go nowhere? The Brookings Institution estimates that congestion-induced delays needlessly cost passengers and airlines $5 billion in wasted time and extra aircraft operating costs.

What has happened to consumer rights? To basic humane and courteous treatment of airline passengers? Flying today has become the airborne equivalent of the New York City Subway—except on the subway, it's a little more courteous and hospitable. Today, the ultimate oxymoron is airline service.

I am concerned about the future of today's airline industry, when it gives such low priority to the backbone of its livelihood—the airline passenger.

Failure to deal with a customer fairly and courteously is short-sighted in any business. The high-profile airline industry is no exception. Short shrift for consumers is not the way to assure healthy profits. If profits are important to the airlines, then customers are the means to that end. Satisfied, well-treated customers return, and keep coming back.

Today's airline industry has illustrated, by its poor record on basic consumer rights, that common decency and respect toward passengers must be made mandatory, not optional.

The Airline Passengers Defense Act of 1990 would give the consumer some basic rights, and establish a mechanism which protect those rights. It would publicize transgressors and establish penalties for the most common and egregious practices of airlines toward consumers:

Today, airlines are not required to do anything if they cancel flights, even at the last minute. My bill would prohibit cancellations for reasons other than safety, within 72 hours of a scheduled departure, and require the airlines to compensate passengers in the case of a violation.

Today, airlines are not obligated to notify passengers of arrival or departure delays. My bill would require airlines to notify passengers of 15-minute or longer departure or arrival delays, the approximate length of the delay, and the reason for the delay. Passengers would than have the opportuinty to make other arrangements.

Today, airlines are not required to compensate passengers for rerouting scheduled flights. My bill would require airlines to compensate each passenger if the airline changes the route of a scheduled flight for any reason other than safety.

Today, airlines don't have to compensate passengers if they lose their luggage. Even if an airline decides to compensate a passenger for lost luggage, it pays on the depreciated value of the items lost, not the cost of replacing them. Most airlines also limit their liability to a low $1,250 per passenger. My bill would require airlines to compensate passengers for lost baggage, up to a limit of $2,500, and would penalize the airlines for failure to do so.

Today, airlines don't have to do anything if baggage is delayed. My bill would require airlines to compensate the passenger for baggage delayed 3 hours or more after arrival and would standardize and simplify baggage claim forms and procedures.

Today, airlines are free to take as long as they want to resolve lost or damaged baggage claims. My bill would require airlines to resolve lost or damaged baggage claims within 30 days or be subject to a penalty paid directly to the passenger.

To carry our these responsibilities, my bill would establish a new Office of Airline Passenger Advocacy, as an independent office within DOT. The Office of Airline Passenger Advocacy would be headed by an Assistant Secretary, confirmed by the Senate, who would report directly to the Secretary of Transportation.

The Office of Airline Passenger Advocacy [OAPA] would receive and handle passenger complaints; provide consumers with airline information; enforce airline passenger service regulations and levy penalties. Someone would be looking after the well-being of passengers.

Currently, the airlines are required to report on matters such as on-time performance. The Airline Passengers Defense Act would broaden that function by allowing the Secretary to publicize airline flights which are late more than 70 percent of the time in 3 consecutive months. This would enable passengers to have some idea about airline performances.

The Airline Passenger Defense Act would establish an [OAPA] Advisory Group composed of 12 qualified members who would advise the Assistant Secretary on issues affecting airline passengers. It would contain at least one quality management professional. The advisory group would submit an annual report containing their findings and recommendations to the President, Congress, and the Assistant Secretary. There could be real oversight by the Congress!

We need a strong consumer advocate, an independent guardian of consumer rights in air transportation: one who seeks not to humble or hamstring the airlines, but to obtain for consumers that which is his or her just due. The advocate should have the power to address

their complaints in those areas where the airlines haven't lived up to their responsibilities.

Airlines have near-monopolies on specific routes and in hub areas. And the record shows that wherever these monopolies occur, service to the customer declines. That is why we need the Airline Passenger Defense Act: to guarantee the rights of the consumers.

This is a modest step forward for the beleaguered, downtrodden airline passenger. It's not reregulation that's impossible and counterproductive.

I invite my colleagues to examine this proposal in depth. We've all heard our constitutents horror stories of passenger neglect. The Airline Passenger Defense Act is a positive step toward correcting the problems that passengers face. If the effort does not begin with us, who will look after the interests of the airline passenger?

The following are letters of support I have received for this bill.

AIRLINE PASSENGERS OF AMERICA,
Alexandria, VA, July 31, 1990.

Re: Airline Passengers Defense Act of 1990.

Hon. DON RITTER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN RITTER: Airline Passengers of America, Inc., is pleased to indicate its support of your legislation, Airline Passengers Defense Act of 1990. This legislation will, when enacted, fill many of the gaps in airline passenger protections that occurred when the domestic airline industry was deregulated in 1978. For too many years now, airline passengers have been buffeted by poor airline service and inadequate remedies because the U.S. Department of Transportation was overly hesitant to impose even minimal regulatory constraints on the deregulated domestic airline industry.

Many of the provisions in your legislation—prohibition of airline cancelling of flights for economic reasons; requiring airlines to provide honest, accurate information to airline passengers; modernizing baggage damage and loss limits to approximate the current cost of such losses; and creation of a new office within DOT to protect airline passenger rights—all of these should be applauded by airline passengers.

The Airline Passengers Defense Act, as introduced, improves upon airline deregulation by assuring that airlines meet minimum standards of service quality while competing in an economically deregulated environment. We urge the 101st Congress to act on this important legislation without delay.

Sincerely,

DAVID J. JEFFREY,
Membership Director.

AIRLINE PASSENGERS ASSOCIATION
OF NORTH AMERICA, INC.,
Arlington, VA, August 1, 1990.

Hon. DON RITTER,
Rayburn House Office Building,
Washington, DC.

Subject: Support for Airline Passengers Defense Act of 1990.

DEAR CONGRESSMAN RITTER: The Airline Passengers Association of North America (APANA) has been pleased to work with you in the development of the Airline Passengers Defense Act of 1990. We support its early enactment by the Congress.

As you know, APANA is a membership organization supported by more than 110,000 frequent business flyers. Our members are professional people who regularly and almost exclusively utilize air transportation for business and leisure travel. They collectively purchase over four million airline tickets and, on average, make over forty flights a year on commercial aircraft. They are a significant part of the eleven percent of air travelers who account for almost half of annual airline revenues.

We believe that the provisions of your legislation are important and are needed to protect the interests of airline passengers. The U.S. Department of Transportation should have protected airline passengers from the excesses of airline deregulation, but hasn't. For example, there are no regulations or penalties against cancellation of flights by airlines for economic, not sfety, reason. Further there are no minimum standards for airline assistance when problems occur: Who pays the overnight hotel costs when a vacationing family misses an interline connection at a hub because of avoidable delays by the first airlines? Passengers cannot "know the rules" because there aren't any. Too many vacations have been ruined because of such unplanned travel expenses.

In addition, there are inadequate levels of coverage for loss of or damage to checked baggage. Too often airline personnel give inaccurate information to passengers about the causes and extent of delays in aircraft departure times. Passengers deserve honesty if not dependable schedules.

The DOT Office of Airlines Passenger Advocacy could, if established, become a voice for passengers rights within the deregulated airline system. There is no inconsistency between minimum standards for carrier behavior toward passengers and an economically deregulated system that encourages carriers to exceed minimum standards.

The Advisory Group of consumer and airline representatives that your important legislation would mandate could recommend solutions to these and other problems to DOT and the Congress.

We applaud your initiative and support early and favorable consideration by the Congress of these concepts.

Sincerely,

RICHARD E. LIVINGSTON,
Chairman and CEO.

TRIBUTE TO JOHN LOVE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to inform my colleagues here in the House of Representatives about a very special event which will take place on August 25 in my hometown of Newark, NJ.

The Bachelors of 91, an organization which has made significant contributions to our community, is holding a 25th Reunion Dinner Dance in honor of one of their distinguished and well-respected founding members, the late Mr. John Love, Esq.

In keeping with Attorney Love's lifelong concern for the well-being of others, the Bachelors of 91 will donate the proceeds from the event to two of his favorite charities, The Juvenile Diabetes Foundation and the NAACP-Legal Defense Fund.

Mr. Love was born to the late John and Ada Hammond Love on May 23, 1938. He grew up in Verona and Montclair. He graduated from Verona High School and received his degrees from Michigan State University and Rutgers University School of Law.

Mr. Love was a trial attorney for 25 years. He began his career as a clerk for Superior Court Judge Charles Barrett, and then served as a deputy attorney general for the State of New Jersey. He later formed the partnerships of Love & Randall with offices in East Orange, NJ.

Attorney Love was active in many organizations, including Michigan State University Black Alumni, Inc., New Jersey State Bar Association, The Association of Trial Lawyers of America, Big Brothers of America, the Montclair Board of Education, Essex County Chapter of Operation PUSH and the New Jersey chapter of the American Civil Liberties Union. He was also the chairman of the Montclair Civil Rights Commission and the Essex County Bar Association's corrections committee. He was a life member of the National Association for the Advancement of Colored People.

In addition, John Love was the recipient of the Martin Luther King, Jr. Award from St. Paul's Church in Montclair. He also received the PATCH Award.

Mr. Love had a wide variety of interests which included everything from campaigning to fishing, from birdwatching to playing the saxophone. He loved to hold audiences of all ages spellbound with his stories, many of which contained a moral or a special lesson for younger listeners.

It is fitting that the Bachelors of 91 chose to donate the proceeds of their 25th Reunion Dinner Dance to two such worthy causes in memory of John Love. The donations to the Juvenile Diabetes Foundation will contribute to research to find the cause and cure of diabetes. Mr. Love was a diabetic. Donations to the NAACP-Legal Defense Fund will provide funding for civil liberties cases involving minorities. John Love was a strong believer in the principle of equal justice under the law.

Mr. Love died after a short illness on June 2, 1989. His survivors include his wife of more than 25 years, Joan; a son, John IV; a daughter, Melanie Louise; a grandson, John V; a sister, Harriet Cotton; a nephew, Christopher; aunts, Louise Oswell, Mary De Leon and Evelyn Beverly; and numerous relatives and friends.

Mr. Speaker, John Love was a man whose life touched many other lives, a man who served as a source of inspiration to all those around him. I ask my colleagues to join me in sending our very best wishes to the Bachelors of 91 as they join together to pay tribute to their friend and founder, John Love.

A FAIR REPAYMENT SCHEDULE AT USDA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the Agricultural Stabilization and Conservation Services of USDA starts a collection of debt

this week from drought victims of 1988 and 1989, and the manner of collection imposes severe and unnecessary hardship upon thousands of farmers.

Several members and I have tried for months to elicit from the secretary of agriculture a sensible procedure for collecting amounts that farmers must repay the government because of "advance deficiency payments" made to them in 1988 and 1989. Our concern is for farmers who suffered crop losses in the extended drought and who have neither the cash, nor source of credit, to repay ASCS. The secretary has been unwilling to consider the financial realities of such farmers.

As of today, ASCS expects to take all of a farmer's program payments at once to settle the 1988-89 debt, with consideration for neither the amount of the debt nor the consequences to the farmer.

I have introduced legislation to require ASCS to allow bonafide victims of the 1988-89 drought to repay ASCS on a 3-year installment plan. This requirement will cost the government little or nothing because the farmers would pay interest on any unpaid balance.

ASCS regulations, in fact, already provide for installment payments. My legislation will simply require ASCS to use the installment plan for farmers who need it, and many will. Most farmers count on the deficiency payments as part of their budget, to help pay the costs for producing the crops, to make loan payments at the local bank, and so forth.

That is the case especially for farmers who suffered drought in 1988 and 1989. The deficiency payments cannot be simply lopped off as though the income was something extra or dispensable. Payment by installments will allow the farmers to survive financially and settle their debt to ASCS at the same time.

The text of H.R. 5404 follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCE PAYMENTS.

Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) is amended by adding at the end the following:

"(c)(1) Notwithstanding any other provision of law, effective only for producers on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

"(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of one percent above the prime rate;

"(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

"(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop for each of the crop years, to the extent the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.).

"(2) This subsection shall apply in the case of producers on a farm if—

"(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under subsection (a);

"(B) the producers are required to provide a refund under subparagraphs (G) or (H) of subsection (a)(2) with respect to the advance deficiency payments;

"(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

"(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.".

THE 25TH ANNIVERSARY OF THE SIGNING OF THE VOTING RIGHTS ACT

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. ESPY. Mr. Speaker, Frank Parker begins his book, "Black Votes Count," by writing, "few events in American political life have had as profound or as far-reaching consequences as has passage of the Voting Rights Act of 1965. That law ended a century of denial to blacks of the most basic right of American citizenship—the right to vote."

Within a short time of its passage, blacks in large numbers throughout the South were registering to vote. Since 1965, more than 12 million black Americans have registered to vote. The number of black elected officials has increased from 500 in 1965, to more than 7,200 in 1989.

There are 24 black Members of Congress, more than 400 black State legislators, and more than 300 black mayors, and 1 black Governor. They symbolize the tremendous increase in black political participation due in large measure to passage of the Voting Rights Act.

The Voting Rights Act swept away the primary legal barriers to black registration and voting in the South. It eliminated literacy tests and declared the poll tax unconstitutional. It allowed the Justice Department to dispatch Federal registrars and poll watchers to insure the integrity of the voting process.

No State has benefited more from the Voting Rights Act than has Mississippi, where resistance to black voter participation was fiercest. Before 1965, even though 40 percent of Mississippi's population was black, discriminatory voter registration laws prevented all but 6.7 percent of black Mississippians from registering to vote, the lowest black registration rate of any State in the Nation. There were only six black elected officials in the State.

Twenty-five years later, Mississippi has over 650 black elected officials, more than any State except Alabama. They include one Supreme Court Justice, a Member of Congress, 22 black State legislators, almost 70 black county supervisors, more than 25 black mayors, and 282 black city council members.

It is appropriate that we honor those giants of the civil rights movement on whose shoulders we all stand; those who fought in the Halls of Congress, but perhaps more significantly those who fought, and some of whom died, in the streets of the South.

Many of them are no longer here: Fannie Lou Hamer, a Mississippi Delta sharecropper who left the cotton fields and led the Mississippi Freedom Democrat Party to the Democratic Convention in Atlantic City in 1964 to challenge the segregated Mississippi Democratic Party.

Medgar Evers, field secretary of the Mississippi NAACP who was assasinated in Jackson, MS, in 1963.

President John Kennedy, killed a few months later, whose courage and moral leadership in the face of stubborn racism and resistance emboldened the Federal Government to defend the rights of all American citizens. Dr. Martin Luther King, Jr., murdered in 1968; Andrew Goodman, James Chaney, and Michael Schwerner, three civil rights workers killed in 1964 in Philadelphia, MS.

Other heroes who braved cattle prods, police dogs, fire hoses, beatings, arrests, and shootings during the voter registration campaigns launched by the Student Non-Violent Coordinating Committee, the Southern Christian Leadership Conference, and others, are still here and have received little recognition for their sacrifices.

I think of Bob Moses, former SNCC leader; June Johnson, from Greenwood, MS, who along with Mrs. Hamer was beaten unconscious in the Winona, MS, jail; Lawrence Guyot, another SNCC leader, Hollis Watkins, and many others too numerous to name. I think of Victoria Gray and Annie Devine, two black women from my district who were leaders of the Mississippi Freedom Democrat Party.

Still another hero, of course, is our colleague, Congressman JOHN LEWIS, whose courage in the face of State-sponsored violence epitomized the determination of the Civil Rights Movement. The march he led on what came to be known as bloody Sunday demonstrated to the Nation the violence black Americans and their white allies faced in the South, simply for trying to exercise their constitutional right to vote.

There were the 1,000 students, most of them white, who participated in the freedom summer, of 1964, who left their comfortable homes in the north and traveled into the hostility of the South to assist with voter registration, open up freedom schools to educate black children, and operate community centers.

Their efforts triggered a tremendous backlash of violence, hundreds were arrested, or beaten, 35 churches were burned, 30 homes were bombed, and there were at least 35 shootings. Goodman, Chaney and Schwerner were murdered and dumped in an earthen dam in Philadelphia, MS.

Then, there were the thousands of blacks throughout the South who risked their lives

and livelihoods by refusing to be denied the right to register to vote. As a result of freedom summer, 17,000 black Mississippians attempted to register to vote, but because of poll taxes, literacy tests, and outright violence and intimidation, only 1,600 succeeded.

It is important to point out that the Voting Rights Act was the result of a tremendous grassroots movement in this country against our own particular form of apartheid.

In 1963, 250,000 people marched on Washington, in an historic march which graphically illustrated black Americans resolve to break down the walls of apartheid in this country. They too are responsible for the Voting Rights Act, which was a milestone achievement in black Americans historic struggle for equality in our country.

We also honor the Members of Congress who voted for the bill, and President Johnson who signed it into law. President Johnson provided the national leadership our country needed at its moment of crisis. He shepherded the Voting Rights Act, he said, because it was at the heart and the purpose of the meaning of America itself.

President Johnson told the Nation that the cause of voting rights was not just for blacks. "Their cause," he said, "must be our cause too. * * * It's really all of us who must overcome the crippling legacy of bigotry and injustice. And," he concluded, "we shall overcome." He signed the Voting Rights Act in the same room in the Capitol—the President's Room—where 104 years earlier, Abraham Lincoln had signed the Emancipation Proclamation.

I think it is also important to point out that even though the changes made possible by the Voting Rights Act were dramatic, resistance to blacks full participation in the political process did not stop with its passage. District lines were gerrymandered, and voting districts configured to dilute blacks' new found voting strength. Minority candidates still faced historic obstacles to election.

But today, in the 1990's, 25 years after the passage of the Voting Rights Act, signs are growing that black Americans' are moving closer to becoming equal players in our political system. Jesse Jackson campaigns for President. Doug Wilder is elected in Virginia and Dave Dinkins in New York. The candidacies of Andy Young, Harvey Gnatt and others demonstrate that we are fast approaching a time when the full promise of the Voting Rights Act will be realized.

Last, I must echo the comments of my colleague, RON DELLUMS. Later today we will debate and vote on the Civil Rights Act of 1990. It would be a tragic irony if we celebrate this morning, and Congress fails to pass this historic legislation today. Let us pass the Civil Rights Act of 1990, and celebrate more tomorrow.

ANTIDRUNK DRIVING

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to acknowledge the 10th anniversary of a very significant and influential Group with which I have been proud to work with in this Congress—mothers against drunk driving. For a decade now, MADD has been at the forefront of the fight against alcohol and drug-impaired driving.

Formed initially by those who knew the pain of losing a loved one to this senseless crime, MADD is now proud to claim many supporters who simply join them in their cause because they are incensed at the sheer numbers of lives lost on our Nation's highways by the actions of drunk drivers.

I am happy to report that alcohol use by drivers in fatal crashes has steadily decreased, thanks in part to the determination of MADD in raising the public's awareness of the problem and pursuing tougher drunk driving laws at both the Federal and State levels.

For the last 3 years, I have been proud to be an original cosponsor or resolutions supporting national drunk driving week and this year, national drive for life weekend over labor day.

In addition, the Public Works and Transportation Committee has shepherded many pieces of legislation through the Congress to toughen anti-drunk and drugged driving measures. Our committee was instrumental in ensuring that the strong drunk driving provisions were included in the 1988 Omnibus Drug Bill.

That bill created an incentive grant program for States to encourage them to adopt and implement drunk driving prevention programs. It authorized a National Academy of Science study to determine the blood alcohol concentration level at which an individual driving a motor vehicle is deemed Impaired. A pilot program was established for drug recognition expert training. These are just some examples of our committee's active involvement in these issues.

My congratulations to Mothers Against Drunk Driving and their successful efforts toward achieving safer highways for all Americans. As we celebrate their 10th anniversary, I pledge to them my continued support in the Congress and urge my colleagues to do the same.

INTRODUCTION OF THE LOW-LEVEL RADIOACTIVE WASTE ENVIRONMENTAL AND HEALTH PROTECTION ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. RAHALL. Mr. Speaker, today I along with the gentleman from Colorado [BEN NIGHTHORSE CAMPBELL], am introducing legislation to protect Americans from the threat of low-level radioactive waste disposal in their local municipal landfills.

The Low-Level Radioactive Waste Environmental and Health Protection Act of 1990 would give the States, not the Nuclear Regulatory Commission [NRC], the final say as to whether low-level radioactive waste should be treated and disposed of as ordinary waste. Specifically, this legislation would amend the Atomic Energy Act of 1954 to prevent the Federal Government from forcing States and localities to accept low-level radioactive waste in municipal landfills. This legislation is prompted by a recent NRC proposal to do just that without the consent of the States.

On June 27, 1990, the NRC set into motion a policy which would enable nuclear utilities, hospitals, and other facilities to petition the NRC to treat waste materials now considered low-level radioactive waste the same as ordinary waste. In other words, facilities could legally dump their low-level radioactive waste into municipal landfills and incinerators. Making matters worse, the chairman of the NRC has made it clear that this policy would preempt a State from requiring the continued disposal of these wastes in a licensed facility as currently required by law.

The implication of such a policy concerns me for several reasons. First, the State of West Virginia stands to lose the most from this policy. As landfills across the United States reach their maximum capacity, States such as Pennsylvania and New Jersey have been targeting West Virginia as their alternative dumping site. If a petition is granted, West Virginia could become America's low-level radioactive waste dumping ground as low-level radioactive waste is mixed with ordinary waste.

Second, according to the NRC, even if West Virginia passed a law to require the continued disposal of low-level radioactive waste in licensed facilities, the NRC policy would prevail. Unlike the provisions in the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Uranium Mill Tailings Act that allow States to establish more stringent standards, the Atomic Energy Act of 1954 does not empower States to set more stringent standards for the regulation of the disposal of low-level radioactive waste should the NRC reclassify a portion of this waste as regular waste. As a result, even though States like Maine, Pennsylvania, and Minnesota have statutes that preclude the disposal of low-level radioactive waste reclassified as regular waste, this recent decision by the NRC would hold these States hostage to the NRC policy.

Finally, this policy is extremely shortsighted. By January 1, 1993, States will be required to dispose of their low-level radioactive waste in 1 of 12 licensed facilities. There is no justification for allowing the disposal of such volatile materials in municipal landfills when there will be a sufficient disposal space for these wastes in 2 years.

The NRC justifies this policy by stating that it will now be able to spend time on more pressing nuclear matters. It appears, however, that the NRC's goal has backfired. Instead, the NRC will exert much of its energy in the next months fighting off opposition from Con-

gress, the States, and environmental groups, and defending it's policy.

I fully intend to be in the front line of this battle and I urge my colleagues to join me by cosponsoring the Low-Level Radioactive Waste Environmental and Health Protection Act of 1990.

A TRIBUTE TO DR. HERBERT O. REID, SR.

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DYMALLY. Mr. Speaker, today I rise to recognize an outstanding individual, whom I am proud and honored to call my friend, Dr. Herbert O. Reid, Sr., the Corporation Counsel for the District of Columbia. He has for more than 40 years been a mentor and role model for scores of this country's African American lawyers, as well as a respected law professor, with an international reputation as an authority in constitutional law. Dr. Reid was in the forefront of the struggle for the civil rights and equality of all Americans; he continues to champion the cause of justice. I invite my colleagues to join me in recognizing the long unselfish labor of this special man by paying tribute to him for an outstanding career in the law.

Dr. Herbert O. Reid, Sr., is presently the Charles Hamilton Houston Distinguished Professor of Law Emeritus at the School of Law, Howard University. Upon completion of his judicial clerkship in 1947, he immediately began his teaching career at Howard University, a point in time when Howard was considered the Black West Point. Dr. Reid specialized in constitutional law and administrative law. He was his students' friend and mentor, oftentimes paying tuition for a student in financial distress and guiding the career paths of many students. He served as interim dean of the School of Law from 1972 to 1974. In October, 1978 he was elected chairman of the Howard University Faculty. Prior to his retirement from the University in September, 1988, Dr. Reid served as a member of the Howard University Steering Committee and as counsel to the Faculty Senate. His capabilities as an educator are nationally renowned. During his teaching career, he served as a visiting professor at the University of Puerto Rico, Boston College of Law, and Rutgers University Law School. An acclaimed lecturer, his voice was heard at Harvard University, University of Maine, Duke University, and Texas A&M University. He is a former member of the executive committee of the American Association of Law Schools. At age 75, Dr. Reid continues to address colleagues at numerous bar association forums and national meetings.

Formerly special counsel for the National Association for the Advancement of Colored People, Dr. Reid presently serves as general counsel for the National Association for Equal Opportunity in Higher Education, an organization of 114 predominately black colleges and universities.

Dr. Reid interrupted his legal education to serve in the military to become a member of special regiment. He joined an army of advocates composed of now U.S. Supreme Court Justice Thurgood Marshall and the late Wiley Branton, former dean of the Howard University School of Law, to fight for change in the lives of those whose voices were inaudible. His willingness to utilize his learned advocacy abilities in helping to resolve a case or controversy was skillfully demonstrated by Dr. Reid in his role as amicus curiae in numerous affirmative action cases before the U.S. Supreme Court. His accomplishments in Bakke versus Regents of the University of California, and as administrative judge in Sizemore versus D.C. Board of Education are most notable. He served as a member of the House of Delegates of the American Bar Association. The premise of "equal justice for all" is the solid rock on which Herbert O. Reid, Sr. stands. Since 1947, while simultaneously serving as an educator, Dr. Reid has participated in major civil rights cases before the U.S. Supreme Court. Among those cases were Powell versus McCormick (prevented removal of a U.S. Congressman from office), Brown versus Board of Education (disallowed segregation in public schools), Bolling versus Sharpe (the companion case to Brown in the District of Columbia), and Adams versus Richardson (preserved historically black colleges and universities as special tools for training of blacks and underserved populations). He aided the passage of numerous pieces of civil rights legislation. Most noteworthy, Dr. Reid authored the bill transferring the Frederick Douglass home to the Federal Government as a national monument. As staff director for an inquiry staff of the NAACP, he developed a report which was later published under the title, "Search and Destroy."

SALUTING THE 20TH ANNIVERSARY OF INROADS, INC.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STOKES. Mr. Speaker, I am pleased to take this opportunity to salute Inroads, Inc., of northeast Ohio, which is celebrating its 20th anniversary. Inroads is a non-profit career development organization for college-bound black, Hispanic, and Native American students interested in pursuing careers in business, engineering, computer technology, and allied health. I want to take this opportunity to share with my colleagues a brief history of this distinguished organization.

In 1970 Frank C. Carr, a white publishing executive, recognized the lack of minorities in the business management ranks. He reasoned that the ghettos and barrios of this Nation had as much talent as any other sector of society—talent that could be developed. Carr sought the support of the business community in providing training programs for minority youth. Seventeen companies became charter sponsors of the first class of 25 college interns. The program became known as Inroads. Today, Inroads boasts 36 affiliates and provides leadership training to 3,580 college interns and 700 high school students.

Mr. Speaker, Inroads began operating in northeast Ohio in 1976. I am proud to report that the program is enjoying great success. Currently, over 160 college students are training in 70 major corporations in the Greater Cleveland area. The northeast Ohio chapter can also boast 115 alumni and 82 pre-college students participating in the program.

The commitment and active involvement of the business community is a key component of the Inroads program. I am pleased to note that the Inroads/Northeast Ohio Board of Directors includes some of the finest leaders in the business community. These individuals have freely given their time, talent and resources to ensure the success of the program.

Mr. Speaker, it is a pleasure to salute Inroads of Northeast Ohio, Inc., on this special occasion. I ask that my colleagues join me in paying tribute to the efforts and undertaking of this distinguished organization.

WITNESS SECURITY PROGRAM

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McCANDLESS. Mr. Speaker, today I have joined my colleagues Congressmen BOB WISE and STEVE SCHIFF, in introducing a bill to increase the arsenal for our country's war on drugs. We are sponsoring legislation to enhance the prosecution of international drug trafficker through use of the Federal Witness Security Program.

The Federal Witness Security Program [Witsec] was created to assist the Government in successfully prosecuting high-ranking members of national crime syndicates. It allows prosecutors to offer threatened witnesses a new identity and relocation to a secure community in exchange for vital testimony. The program's success has been overwhelming. Yet increased international narcotics prosecutions have pointed to the need for certain program changes.

Today, almost 80 percent of all Witsec cases are related to narcotics prosecutions. These prosecutions often require the use of foreign national witnesses. As a successful former prosecutor pointed out, "When you are talking about defendants who are operating cocaine rings from Peru, Bolivia, or Colombia—most of them run their rings from their foreign jurisdictions. A great deal of the conversations and activities which have to be testified about take place in foreign jurisdictions, which means that your witnesses are going to come from those same jurisdictions."

Prosecutors, however, have encountered difficulties in bringing foreign national witnesses and their families into the Witsec program. Under current immigration procedure, a foreign national may enter the United States as a nonimmigrant as a parolee, visitor, or temporary or permanent employee of a U.S. subsidiary of a foreign company. Foreign nationals who are authorized to enter the Witsec program are usually paroled into the country and must appear annually to extend their nonimmigrant status. Most are unable to qualify

for permanent residency under existing immigration law and are therefore left to immigration limbo, relying on timely annual status reviews to keep them in the United States and away from the certain death of deportation.

Widespread awareness of the hardships and uncertainty caused by this inflexibility have made obtaining vital foreign testimony more difficulty as potential witnesses shy away from the program. Consequently, Congressmen WISE, SCHIFF, and I have introduced today's bill to provide the Attorney General with the authority to offer permanent resident alien status to up to 100 vital witnesses and their families per year.

I am pound to be a sponsor of this important legislation, and look forward to its early enactment into law.

TED AND HARRIET DUSANENKO CELEBRATE 50TH ANNIVERSARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GILMAN. Mr. Speaker, I wish to call to the attention of our colleagues the fact that one of the most dynamic and inspirational couples in our 22d Congressional District of New York is about to celebrate a milestone occasion.

Ted and Harriet Dusanenko married on August 18, 1940. The world has changed in many ways since their lives were joined as one, but their love for each other and commitment to a better world for all of us have remained a constant beacon throughout our ever-changing society.

As a veteran of World War II, Ted has served with distinction as Commander of the Ukrainian War Veterans organization, which has underscored the basic truth that one of the most patriotic of all groups in our nation have been Americans of Ukrainan extraction. It underscores also the crying need for freedom, justice and liberty in the Ukraine today.

Ted was one of the founders of the New City (NY) Ambulance Corps, and in that capacity has helped save countless lives. The New City Ambulance Corps, has extended to Ted the rare honor of being afforded a life membership—a fitting tribute to his assistance and his leadership.

Ted Dusanenko is also an active member of both the Rockland County Senior Citizens and the Rockland County Republican Committee. He has personified the adage that service to community is the greatest work of life.

Harriet's career and accomplishments are just as impressive. Harriet has been a lynchpin with both the National Heart Association and with the Cancer Foundation. She is active with the Ukrainian-American Association for Women, with the Embroidery Guild, and was a long-time leader in the Clarkstown High School PTA, where she served as president.

Harriet's dedication to the Republican Party has been just as intense as her husband Ted's. She is not only a long-time Rockland County Committeewoman, she has also served in the Women's Republican Club and the New York State Women's Association of Republican Clubs.

On August 18, the Dusanenko's sons, Ted and Jerry, their daughter, Andrea and four grandchildren, will be joining with their many friends and admirers to celebrate their anniversary at a surprise gala at the Spring Valley (NY) Ukrainian Hall. Mr. Speaker, I ask our colleagues to join with me in extending our congratulations to public spirited Dusanenkos on what promises to be a memorable and well-deserved celebration.

UNEMPLOYMENT INSURANCE PROGRAM

HON. JILL LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. LONG. Mr. Speaker, I rise today to introduce legislation to reform the way we budget for the Unemployment Insurance Program. Earlier this year, unemployment offices in States across the country were closed due to a shortfall in Federal funding. While the Congress passed a supplemental appropriation which reopened many of the offices, this legislation would address the underlying problem which caused the shortfall.

The administration of the Unemployment Insurance Program is paid for by a Federal tax on employers. The revenue raised by this tax is held in the Unemployment Trust Fund [UTF] and is dedicated solely to the Unemployment Insurance Program. However, the Unemployment Trust Fund is included in the calculation of the Gramm-Rudman-Hollings [RGH] deficit, and the funds that pay for the administration of the Unemployment Insurance Program are subject to sequester.

The recent funding shortfall was due to both a GRH sequester and an underestimation of the workload by the Department of Labor that resulted in inadequate fiscal year 1990 appropriations.

The fiscal year 1990 sequester was clearly a budget action to meet GRH targets. The underestimation of the workload and subsequent lack of attention to the problem may also have been driven by budget pressure to hold down spending in order to reach GRH targets. In fact, it appears that this year there will again be an underestimation of the workload by the Department of Labor. The Interstate Conference of Employment Security Agencies reports that, according to the mid-year review of economic assumptions, the Department of Labor has again underestimated the workload by $100 million and, as of yet, has not made a decision to amend the fiscal year 1991 budget request.

However, these budget actions save money on paper only. Any unspent moneys are required to remain in the trust fund where they build up, unspent. The current estimate for the year-end balance in administrative funds account is $1.64 billion.

The legislation I introduce today would address the shortfall by exempting administrative funding from sequester and removing the UTF from the GRH deficit calculation. By removing the UTF from the GRH deficit calculation, any pressure that may exist to hold down expenditures from the UTF and to build a surplus in the trust fund would be eliminated. The sequester of funds that derive from a dedicated tax defeats the purpose of a dedicated tax and is merely an accounting device to meet GRH targets.

Mr. Speaker, this legislation would help bring integrity to the budget process and to protect the unemployment insurance program from unwarranted funding shortfalls, and I urge my colleagues to support it.

HUMAN GENE THERAPY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PORTER. Mr. Speaker, genetic research has recently been attacked by Members of Congress and the press.

Critics point to several potential ethical problems inherent in screening individuals for genetic flaws. What are the implications for health insurance? Will people with bad genes be priced out of the market?

How will parents use our increased understanding of genetics? Should a mother abort a fetus with a predisposition to a fatal or debilitating condition? What about a less severe condition, or a fetus disposed to below average intelligence?

These are serious concerns. But they are the flip side of a much brighter picture. By understanding the human genetic code we may someday be able to cure the over 4,000 known genetic diseases. We may be able to cure cancer.

On Monday, Federal researchers received approval to perform the first human gene therapy, which is the only hope for people with a fatal skin cancer.

Mr. Speaker, we must address the ethical implications of our research. These are very serious concerns. But at the same time we must encourage efforts to improve the health of millions of Americans by leading-edge technologies like genetic research.

TRIBUTE TO MR. ALBERT STEPHEN VOLANSKY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a renowned individual, Mr. Albert Stephen Volansky. Mr. Volansky will be 80 years old on December 31, 1990. On August 4, 1990, there will be a surprise birthday party commemorating this achievement.

Mr. Volansky was born in Pennsylvania and moved to Michigan in 1930. He was a general foreman for Chrysler from 1932 until 1970. He has since retired and spends his summers on Higgins Lake in Michigan.

Mr. Volansky has lived during a unique time in American History. Within his lifetime he has witnessed the television age, the jet age, the nuclear age, the computer age and the space

age, not to mention two world wars and the beginning and end of the cold war.

Yet, Mr. Volansky's life has not been measured by scientific or political milestones, but by his own achievements within his family, with his friends and through his community.

After moving to Michigan, Mr. Volansky quickly became a part of our community. He started the Little League Baseball program in East Detroit, MI. His association with Notre Dame High School prompted him to start the Mom & Dads Club as well as the Conservation Club. I share the common experiences that East Detroit and Notre Dame have to offer and know they provide Mr. Volansky with fond memories.

I hold Mr. Volansky in the deepest regard. He will long be remembered as a true friend of our community.

TRIBUTE TO MAX AND GEORGIA VIDETO

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to two individuals who will be inducted in the Michigan Farmer's Hall of Fame later this month. Max and Georgia Videto are from Spring Arbor, which is located within my second congressional district.

Max started farming with his father in 1935. In 1943 he started buying land to expand the operation. By 1959, Max had a completely new dairy set-up for 300 cows.

Today the Videto Vista Farm includes 900 acres. In 1988, the farm earned the Michigan Dairy Herd Improvement Association's "Progressive Dairyman of the Year Award." Currently 250 acres of the farm are into hay and 650 acres are into corn.

Max has practiced crop rotation, TMR feeding, production splitting of milk cows, and has a current herd average of 19,800 pounds. He currently milks some 190 cows.

Now working the farm with his four sons, Max has received numerous awards from service clubs, has served as township supervisor, and currently is a county commissioner and serves on the county fair board.

Georgia has spent many years as a farm wife and has kept very busy raising four sons. Georgia also helped with the milking chores, raised a small garden, flowers and canned food.

She was active in the PTA, child study groups, and a member of the Farm Bureau for 30 years. Georgia now keeps busy with 11 grandchildren.

Mr. Speaker, I ask my colleagues to join with me in congratulating the Videtos on their induction to the Michigan Farmer's Hall of Fame.

TRIBUTE TO ROB BRYANT: A PROFILE IN STRENGTH AND PERSEVERANCE

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GEREN of Texas. Mr. Speaker, strength and perseverance rolled into town this week in the heart of Rob Bryant. Rob is a DynCorp engineer from Fort Worth, TX, who just completed a 3,000-mile journey from Los Angeles to Washington on a bicycle. Rob is also a paraplegic.

Eight years ago in 1982, Rob Brant fell 60 feet from a scaffolding to wake up in a hospital, paralyzed from the waist down. The doctors told him he would never walk again. But he refused to accept the limitations they put on him, and 2 years later, he set a world record by walking the 24-mile stretch between Fort Worth and Dallas on crutches.

Rob's motto is "Don't stop in the face of adversity, but concentrate on the things you can do well." He is living proof of the power of belief, and the strength one can find in courage.

Rob began his newest challenge on April 2 of this year, when he left Los Angeles on a three-wheeled RowCycle to venture across country and carry his message of hope and optimism to all who would listen. Traveling across the country, covering from 10 miles per day to sometimes 60 miles per day, Rob beat all the odds. He overcame the daily repairs needed on his RowCycle, the 80 m.p.h. currents that produced the 38 degree winds in the mountains near El Paso, and the physical strain that no doubt accompanied him on his journey.

His physical trek across the country ended in Washington on Monday, July 30, but his challenge will continue. Not the challenge to survive or to get through every day. No, Rob conquered those challenges long ago. Rob's challenge will be to carry his message to all of those fighting adversity and to those facing the struggle of day-to-day life.

Rob Bryant has written a book about his life and faith, "Lord Lift Me Up * * * And Let Me Stand." But Rob already stands tall in our eyes. He truly is a profile in strength and perseverance and an inspiration to all of us.

FOOD AND AGRICULTURAL RESOURCES ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SYNAR. Mr. Speaker, today I voted for H.R. 3850, the Food and Agricultural Resources Act, a bill which provides a 5-year reauthorization of our country's farm commodity programs, international food aid and agricultural export promotion activities, USDA research and extension programs and agricultural conservation and forestry activities.

I supported H.R. 3950 because these farm programs are needed to provide the structural stability that produces the wide variety of affordable food our consumers enjoy. The 1990 farm bill is a continuation of the market-oriented principles Congress legislated in the 1985 farm bill. The provisions in this legislation will help reduce our farmer's dependence upon Government payments and strengthen reliance on the marketplace for income. In 1987, corn and wheat producers received 33 percent of their income as cash payments from the Government. In 1990, these same producers will get less than 15 percent of their income from the taxpayer. H.R. 3950 continues to reduce the costs of farm commodity programs by freezing target prices at current levels on wheat, corn, rice, and cotton through 1995.

I do, however, recognize that the cost of production increases combined with lower loan rates and price supports will have an adverse impact on the income of Oklahoma farmers. I am sympathetic to my District farmers' calls for increasing price supports and marketing loans, given that the net income of Oklahoma farmers is a mere $13,209. Unfortunately, our country's pending fiscal crisis makes it impossible to allow for even inflationary increases in our support programs. Oklahoma farmers are very important to our nation's balance of trade. Oklahoma's chief cash crops, soybeans, wheat, and cattle, provide essential export opportunities for our country. I am hopeful the freeze in target prices and limited marketing loans will provide the necessary assistance to Oklahoma farmers so they can continue to compete in the global market with highly subsidized foreign farmers.

H.R. 3950 also includes provisions to make environmental improvements in our country's agricultural production methods. This bill will help protect our Nation's ground water and wetlands, and also provide incentives for farmers to reduce farm acreage and engage in soil and water conservation. The bill expands the list of Federal program benefits lost for any person who produces an agricultural commodity on highly erodible land without an approved conservation plan.

I am pleased the House voted to include my amendment which prohibits the export of pesticides banned in the United States. This amendment is important because it will provide protection to Oklahoma's farmers who are forced to compete against imported food products which are tainted by substandard pesticides. My amendment will also protect consumers who may be exposed to residues of these illegal chemicals on imported foods.

I do want to express my reasons for rejecting efforts to means test farm programs. I disagree with those who favor limiting participation in farm program to those individuals who earn more than $100,000 in annual income. Yearly net income is an arbitrary indicator on which to base eligibility for farm programs. One good year of production can be followed by two bad years in this highly unpredictable, yet vital sector of our economy. In addition, I believe it is necessary for all sizes of producers to participate in Federal farm programs to ensure they operate efficiently and effectively. Imposing income limits on participation in Federal farm programs would undermine the main goals of U.S. farm policy. Farm programs are

not welfare. They help stabilize agricultural markets by managing production.

Finally, I recognize the need to establish limits on the amount of farm payments to farmers. The intent of farm programs is to help individual farmers. I am concerned that certain individuals organize into various trust and corporate schemes to avoid Federal farm payment limits. These abusive practices are clearly not the intent of Congress, and for this reason I supported the compromise Huckaby amendment which would continue to permit producers to collect deficiency payments as a participant in three different entities, but limit total payments to $100,000. It is my hope this amendment will crack down on abusers who give negative publicity to our country's farm programs and place our family farmers at a competitive disadvantage. I applaud the Agriculture Committee's declaration to ensure USDA vigorously enforce the payment limit.

KATIE MORRIS TEACHES ABOUT ENVIRONMENT

HON. GEORGE E. BROWN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BROWN of California. Mr. Speaker, during the celebrations of Earth Day this April, many of us expressed concern about our Nation's long-term dedication to fundamental changes to improve environmental quality. Many feared that the enthusiasm of the day would end there—that people would quickly return to old, bad habits that degrade our air, water, and natural resources. However, in my district, a kindergarten teacher and her students are proving those skeptics wrong.

Katie Morris, a kindergarten teacher at Lytle Creek Elementary School, spent the month of June teaching her students about the environment—what actions are harmful to the environment and what we can do to protect and preserve it. One of her lessons taught the children that the chemicals used to manufacture plastic foam products are partially responsible for the destruction of the ozone layer, and that these same products, when discarded, take up landfill space because they are not biodegradable.

The students were quick to point out to Ms. Morris, that their school used styrofoam trays and cups to serve breakfast to the students in the mornings. A little research by Ms. Morris and her children revealed that 13 schools in the San Bernardino School District discard 7,500 foam trays every week.

Realizing that they were directly contributing to the environmental problem, the students quickly mobilized. Every morning Ms. Morris' children would proudly march into her classroom, arms overflowing with styrofoam trays and cups which they had collected from other students or had dug out of the trash, and excitedly announced how they were saving the environment.

After weeks of this crusade, Ms. Morris' kindergarten classroom was overflowing—there were garbage bags stuffed full of styrofoam cups and styrofoam trays were falling out of every cupboard. Appalled at the mess and tired of handwashing dozens of dirty breakfast trays every morning, Ms. Morris gathered up her students and all of their styrofoam and took their case to the school board, asking that better alternatives be considered. Impressed by their presentation and concern for the environment, the Board has begun to reexamine the products it uses throughout the district.

We can all learn from Ms. Morris and her students at Lytle Creek Elementary School. They epitomize the ideal in America that no matter how small or insignificant our actions may appear, the individual efforts of each one of us makes a difference. This is especially true with concern to the environment. Every action that we take can either degrade the environment or help build a cleaner and safer world. I am proud to point out the efforts of Ms. Morris and her students and hope that all of us will learn from their example.